

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 29.01.2020
CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No. 14902 of 2017

Vimal Kumar

...Petitioner

-vs-

1. The State of Tamil Nadu,
Rep. by its Secretary/Industries Department,
Fort St.George,
Chennai - 600 009.
 2. The District Collector,
Kancheepuram District,
Kancheepuram.
 3. The Special Tahsildar (Land Acquisition),
Irungattukottai Scheme Unit I,
Sriperumbudur.
 4. The Managing Director,
SIPCOT,
19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai - 600 008.
 5. The Panchayat Union,
Sriperumbudur,
Represented by its Executive Authority,
Sriperumbudur.
- ... Respondents

PRAYER: Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in Roc.No.22/2016 dated 03.10.2016 and to direct the respondents 1 to 3 to refer the issue of payment of enhanced compensation with respect to the lands of the petitioner, measuring acres 2.16 in survey No.121/3, Irungattukottai Village, Sriperumbudur Taluk under Section 18 of the Land Acquisition Act.

For Petitioner : Mr.T.M.Hariharan

For Respondents : Mrs.Sudarsana Sundar [R1 & R2]

Mr.M. Elumalai
Government Advocate [R3]

R5-No appearance

ORDER

Heard Mr.T.M.Hariharan, learned counsel for petitioner, Mrs.Sudarsana Sundar, learned counsel for respondents 1 and 2 and Mr.M.Elumalai, learned Government Advocate for respondent No.3.

2. With consent of learned counsel on either side, the writ petition itself is taken up for final disposal.

3. This writ petition has been filed to quash the order passed by the 2nd respondent dated 03.10.2016, by which, the request made by the petitioner for referring his claim for enhanced compensation in respect of the land comprised in survey No.121/3, Irungattukottai Village, Sriperumbudur Taluk, measuring an extent of 2.16 acres, which was acquired for a project to be developed by SIPCOT, the 4th respondent, was rejected.

4. The stand taken in the impugned order and reiterated in the counter affidavit is that the petitioner did not submit an application for reference of his case for claiming enhanced compensation by making an application in terms of Section 18 of the Land Acquisition Act (hereinafter referred to as 'the Act') within the time limit and therefore, the question of referring the matter to the Civil Court for deciding the claim for enhanced compensation after 17 years does not arise. It is further stated in the counter affidavit that the award was passed in respect of lands in survey No.121/3 on 28.08.1998 in Award No.15/1998 and not in Award No.7/1998 dated 01.09.1998 as stated and claimed by the petitioner. Further it is submitted that in terms of Section 18(2)(b) of the Act, the time limit for seeking a reference is six months from the date of pronouncement of award and the award in the petitioner's case was pronounced on 28.08.1998 and the compensation was paid during the years 1998 & 2000 and the petitioner cannot contend that the copy of

the award was not served on him. The correctness of the stand taken by the 2nd respondent in the impugned order and the counter affidavit needs to be decided.

5. Further in paragraph 7(d) in the counter affidavit, the respondents 2 and 3 would admit that the petitioner has already sought for reference under Section 18 of the Act in respect of the other awards, which were passed wherein the lands owned by the petitioner were acquired. Admittedly, the petitioner owned vast extent of land and the entire lands have now been acquired for the said project. Earlier, the petitioner approached this Court and filed writ petitions in W.P.Nos.17023 & 17024 of 2016. In W.P.No.17023 of 2016, the prayer sought for was to refer the matter to the Civil Court for deciding the claim for enhanced compensation under Section 18 of the Act in respect of the land comprised in survey No.121/3, which is covered in the award No.7 of 1998. The prayer sought for in the other writ petition may not be of much relevance to in this case. The writ petitions were disposed of by a common order dated 12.05.2016 stating that there was no proof available in the documents filed before this Court to establish that the petitioner had sent a earlier representation on 18.07.2014 claiming enhanced compensation. However, this Court did not foreclose the right of the petitioner, but directed the petitioner to give a fresh representation within a time frame and the District Collector is directed to pass appropriate orders within a period of four(4) weeks by considering the representation on merits and in accordance with law. Pursuant to the direction, the petitioner submitted a representation dated 27.05.2016. This representation has been rejected by the impugned order for the reason that there was no application filed by the petitioner seeking reference and therefore, the representation, at this distant point of time, cannot be entertained.

6. The stand taken by the 2nd and 3rd respondents in the counter affidavit appears to be factually incorrect, as could be seen from the documents filed in the additional typed set of papers. These documents are the form of reference to the Sub Court, Poonamallee as prepared by the SIPCOT, the 3rd respondent. The form of reference pertains to award No.15/1998 relating to lands in survey Nos.113/12, 113/17, 113/18, 114/11 and 114/12. The appendix to the said form is schedule under Section 19(1) of the Act giving particulars of the Statement in writing. As could be seen from the said schedule, the petitioner has given two statements/objections on 23.12.1996 and 07.12.1998 and these have been received by the 3rd respondent on the very same dates. There is also another date mentioned namely 06.09.1996. The abstract of the statement given by the petitioner is claiming

enhanced compensation. The copy of this statement has been enclosed along with the schedule and from which it is seen that it is the representation in respect of all the lands, which were acquired. From the tabulated statement, it is seen that the land in survey No.121/3 measuring an extent of 0.87.5 acres also finds place. The representation has been received by the 3rd respondent on 07.12.1998 as could be seen from the initials made on the representations by the 3rd respondent.

7. Furthermore, in the schedule, it is clearly admitted that the petitioner has given three representations/statements received on 06.09.1996, 23.12.1996 and 07.12.1998. Thus, the petitioner is shown to have given the representation in respect of all the lands and this Court cannot believe the stand taken by the 3rd respondent stating that the petitioner did not give any representation for reference of the claim for enhanced compensation in respect of survey No.121/3.

8. In fact, the petitioner is not going to benefit by not seeking for a reference in respect of the said survey number alone when admittedly, the petitioner has given a representation in respect of all other survey numbers, which were acquired. As mentioned earlier, the respondents 2 and 3, in their counter affidavit, have candidly stated that the petitioner has already sought for reference under Section 18 of the Act in respect of other lands. Therefore, in the considered view of this Court, the petitioner's claim cannot be rejected and the respondents are bound to refer the matter to the Civil Court for claiming enhanced compensation in respect of the lands comprised in survey No.121/3. There is a dispute raised by the 3rd respondent stating that the lands are covered in award No.15/1998 and not under award No.7/1998 as claimed by the petitioner. The learned counsel for the petitioner has produced the copy of the award No.7/1998 dated 01.09.1998, from which, it is seen that the survey No.121/3 finds place in award No.7/1998. In any event, if there is any mistake in this regard, this Court is concerned only with regard to the lands in survey No.121/3 and it is for the authorities to verify under which award it is covered.

9. For all the above reasons, the writ petition stands allowed and the impugned order is set aside and the 2nd respondent is directed to refer the claim of the petitioner to the Sub Court, Poonamallee, for claiming enhanced compensation in respect of lands, which were acquired, comprised in survey No.121/3, Irungattukottai Village, Sriperumbudur Taluk measuring an extent of 2.16 acres under Section 18 of the Act.

The above direction be complied with by the 2nd respondent within a period of four weeks from the date of receipt of a copy of this order. The Court is informed that the reference is still pending before the Sub Court, Poonamallee in respect of all other lands and if it is so, the learned Sub court is requested to entertain the reference and tag the same with other matters and take a decision as expeditiously as possible, in accordance with law. No costs.

Sd/-
Asst.Registrar (CS VII)

/true copy/
Sub Asst. Registrar

mp
To

1. The Secretary/Industries Department,
Fort St.George,
Chennai - 600 009.
2. The District Collector,
Kancheepuram District,
Kancheepuram.
3. The Special Tahsildar (Land Acquisition),
Irungattukottai Scheme Unit I,
Sriperumbudur.
4. The Panchayat Union,
Sriperumbudur,
Represented by its Executive Authority,
Sriperumbudur.
- 5.The Managing Director
SIPCOT, 19-A Rukmani Lakshmipathy Road
Egmore, Chennai
- 6.The Sub Court, Poonamallee (for Compliance)

+1 cc to M/s.Sudharshana Sundar Advocate sr7610
+1 cc to M/s.M.Vijayakumar Advocate sr6998

W.P.No.14902 of 2017

sj(co)
aa04/03/2020