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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.07.2021

CORAM

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

W.P. No.1632 of 2021

A.S. Kasthurirangan

... Petitioner

Vs

1. The District Collector,
Chennai District,
Chennai Collectorate,
Chennai 1.

2. The Special Tahsildar (Land Acquisition)
Highways I.R.R Scheme,
Mambalam-Guindy Taluk,
Chennai Collectorate, Chennai -01

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus directing the respondents to pay the compensation along with interest for the property duly acquired after proper determination of the compensation by the competent authority and also permit the petitioner to withdraw the amount credited in the account of the Registrar, City Civil Court, under the Award No.02/2009 dated 21.10.2009.

For petitioner

... Mr.P.Sunil Alias Sunil Prakash

For respondents

... Mr. Yogesh Kannadasan,
Government Advocate

ORDER

This writ petition has been filed seeking a direction to pay compensation to the petitioner for the land acquired.

2. According to the petitioner, on 15.04.1974, the petitioner has purchased the land in Survey No.336/2, Plot No.2, Srinivasa Nagar 1st Cross Road, No.137, Velachery Village, Saidapet Taluk, Chengalpattu District, to an extent of 3600 sq.ft from one P.S. Raghavan. Subsequently, in the year 2003, the said land was acquired under the Tamilnadu Highways Act



without issuing any notice whatsoever to the petitioner. Thereafter, the petitioner came to know that the award was also passed and the award amount has also been deposited under Section 21(2) and 22(3) of the Highways Act 34 of 2002 on the file of the LAOP No.04/2011 before the VI Assistant City Civil Court, Chennai in the name of the vendor of the petitioner, namely P.S.Raghavan. Subsequently, the petitioner came to know that LAOP was dismissed by the VI Assistant Judge, City Civil Court, Chennai for non prosecution and the reference was closed. Immediately, the petitioner approached the respondents 1 and 2 to pay the compensation to him. Since, no order has been passed, the present writ petition has been filed.

3. The learned counsel for the petitioner would submit that the petitioner has purchased the property on 15.04.1974. But, the land acquisition proceedings has been initiated only in the year 2003 in the name of his vendor without issuing any notice whatsoever to the petitioner and award was also passed in the name of the vendor, and the award amount was deposited before the Civil Court. After coming to know about the same, the petitioner approached the authorities to pay the awarded amount to the petitioner. But, so far no order has been passed. He would further submit that the reference Court also dismissed the reference without considering the fact that the Reference Court cannot dismissed the reference for default, and relied upon the judgment of the Hon'ble Supreme Court in the case of Khazan Singh (dead) by L.Rs., /vs/ Union of India reported in AIR 2002 SC 726. The relevant portion of the order reads as follows:-

" 7. The provisions above subsumed would thus make it clear that the Civil Court has to pass an award in answer to the reference made by the Collector under S.18 of the Act. If any party to whom notice has been served by the Civil Court did not participate in the inquiry it would only be at his risk because an award would be passed perhaps to the detriment of the concerned party. But non-participation of any party would not confer jurisdiction on the Civil Court to dismiss the reference for default."

According to the petitioner, he is the lawful owner of the property and compensation should necessarily be paid to him.



4. The learned Government Advocate appearing for the respondents would submit that even though the petitioner said to have purchased the property in the year 1974, Revenue Records has not been mutated in the name of the petitioner. As per the revenue records, the property stands in the name of his vendor. Therefore, the authorities concerned issued notice to his vendor and passed award in his name and the petitioner cannot find fault on the respondents. The petitioner has failed to mutate the revenue records. If the petitioner mutated the records, notice might have been sent to the petitioner. That apart, now the amount has been deposited before the Civil Court under 21(2) and 22(3) of the Highways Act 34 of 2002. After depositing the amount before the Civil Court, the respondent becomes Functus officio. Hence, the petitioner has to approach the Civil Court and seek appropriate relief. The respondents herein cannot pass any order with regard to paying compensation to the petitioner.

5. Heard both sides and perused the materials available on records carefully.

6. Admittedly, award has been passed in the name of the vendor of the petitioner, namely, one P.S. Raghavan and the amount has been deposited under Section 21(2) and 22(3) of the Tamilnadu Highways Act in LAOP No.4 of 2011 in the name of the petitioner's vendor P.S. Raghavan. Now, it is stated that the Reference Court dismissed the LAOP for non prosecution and closed the reference. As rightly contended by the learned counsel for the petitioner, the Reference Court cannot dismissed the reference for non prosecution as held by the Hon'ble Supreme Court in the case of Khazan Singh(dead) by LRs /vs/ Union of India reported in AIR 2002 SC 726(supra). The petitioner claims to be the purchaser of the property in the year 1974, and the original owner P.S.Raghavan is also not claiming any right over the compensation.

7. Considering the above facts and circumstances, the petitioner is directed to file a petition to restore the LAOP.No. 4 of 2011, before the VI Assistant City Civil Court, Chennai, within a period of two weeks from the date of receipt of a copy of this order. On filing such petition, the learned VI Assistant Judge, City Civil Court, Chennai, is directed restore the LAOP and conduct enquiry and complete the same and pass final orders on the reference, on merits and in accordance with law, within a period of six(6) months thereafter. The petitioner is directed to file necessary documents to establish his title.



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8. With the above directions, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The VIth Assistant Judge, City Civil Court, Chennai
2. The District Collector,
Chennai District,
Chennai Collectorate,
Chennai 1.
3. The Special Tahsildar (Land Acquisition)
Highways I.R.R Scheme,
Mambalam-Guindy Taluk,
Chennai Collectorate, Chennai -01

+1CC to Mr.K.Sambasathasivan, Advocate, Sr.No.31821

+1CC to Government Pleader, Sr.No.31970

+1CC to Mr.K.Sambasathasivan, Advocate, Sr.No.31821 (18.08.2021)

W.P. No.1632 of 2021

SKY (CO)
K.RK. (06.08.2021)