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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2021

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.A.NO.1046 OF 2018

Dr.S.Vijaykumar

... Appellant

Versus

1. The State of Tamil Nadu,
Rep. By its Secretary to Government,
Industries Department,
Fort St. George,
Madras - 9.
2. The Special Tahsildar (Land Acquisition),
Petrochemical Park,
TIDCO, 485, Anna Salai,
Nandanam,
Chennai - 35.
3. The Managing Director,
Tamil Nadu Industrial Development Corporation,
No.19, ARL Road,
Egmore,
Chennai - 8.

... Respondents

PRAYER:-

Writ Appeal has been filed under Section 15 of Letter of Patent against the order dated 22.01.2018 passed in W.P.No.6413 of 2013 by the learned Single Judge.

Prayer in W.P.No.6413 of 2013:-

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records relating to the Order of the 2nd respondent issued in R.C.No.76/98/A, dated 31/12/2001, including the 4(1) notification issued in G.O.Ms.No.756, Industries (MID-II) Department, dated 07/10/1999 by the 1st respondent, quash the same insofar as it relates to the land measuring an extent of



1.04.0 Hectares in S.No.167/1, 170/1, 171/1 within the Registration District of Chengalpet, MGR District and the Registration Sub-District of Ponneri.

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For Appellant : Mr.L.P.Maurya
For R1 & R2 : Mr.T.Arunkumar
Government Advocate
For R3 : Mr.M.Vijayan
For M/s.King & Partridge

JUDGMENT

(Judgment of the Court was delivered by T.RAJA, J.)

The present appeal is directed against the impugned order passed by the learned Single Judge in W.P.No.6413 of 2013, dated 22.01.2018, directing the respondents to pay the compensation to the writ petitioner together with interest at 12% per annum from the date the amount became due to him.

2. Mr.L.P.Maurya, learned counsel appearing for the appellant, finding fault with the fixation of 12% interest per annum payable to the appellant, directly taking us to Sections 31 and 34 of the Land Acquisition Act (in short "the Act"), contended that by virtue of Section 31, if the land owner fails to give consent to receive the compensation tendered by the District Collector after passing of the award under Section 11, the Collector shall deposit the amount of compensation in the Court to which a reference under Section 18 would be submitted, which he has not done so. Having not deposited the compensation as per Section 31(2), merely the Tahsildar concerned tendering the compensation cannot be construed as either tendering or depositing the compensation as contemplated by Section 34, inasmuch Section 34 of the Act makes it clear that when the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of 9% per annum from the time of so taking possession until it shall have been so paid or deposited, besides, proviso to Section 34 further mandates that if such compensation is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of 15% per annum shall be payable from the date of expiry of the said period of one year on the amount of compensation. In the present case, that one year period as mandated in Section 34 expires on 25.03.2003



as the lands owned by the appellant were handed over to TIDCO/third respondent on 26.03.2002. Since the mandatory provision for payment of interest at the rate of 15% per annum has been overlooked by the learned Single Judge, the impugned order is liable to be modified and the third respondent/TIDCO, who has acquired the land from the appellant, may be directed to pay the interest at the rate of 15% per annum instead of 12% as per Section 34 of the Act.

3. Mr.M.Vijayan, learned counsel for the third respondent/TIDCO submitted that after the award passed by the Land Acquisition Officer on 31.12.2001 in Award No.8 of 2001, although the Tahsildar concerned had handed over the compensation to the appellant, he had refused to receive the same, hence, the said sum was kept under the Revenue Deposit for future payment in Challan No.ST/31, dated 28.03.2002 in Sub-Treasury, Saidapet. Therefore, since only the appellant by raising the objection had refused to receive the compensation, the impugned order passed by the learned Single Judge directing the respondents to pay the compensation with interest at 12% per annum cannot be found fault with. Now, it is open to the appellant to receive the compensation already deposited by approaching the reference Court, namely, Sub Court, Ponneri, where LAOP No.49 of 2018 is pending.

4. Mr.T.Arunkumar, learned Government Advocate for the respondents 1 and 2 submitted that now the appellant is having only two remedies; firstly, for getting enhancement of compensation, he has to pursue LAOP.No.49 of 2018 pending on the file of Sub-Court, Ponneri; and secondly, he has to pursue his claim for higher rate of interest.

5. At this juncture, Mr.M.Vijayan, learned counsel for the TIDCO, submitted that if the appellant comes forward to withdraw the pending LAOP No.49 of 2008 seeking enhancement of compensation, the third respondent/TIDCO would be coming forward to pay the compensation along with interest at the rate of 5% per annum from date of expiry of one year period i.e. 26.03.2003.

6. Pursuant to the above said submissions of the learned Government Advocate for the respondents 1 and 2 and the learned counsel for TIDCO, learned counsel for the appellant has filed an affidavit dated 14.08.2021 confining his relief to the interest alone on the compensation awarded to him. He has also given an undertaking not to claim reference for enhancement of compensation. Paragraph No.5 thereof is extracted below:-

"5. I respectfully submit that I am confining my relief to the interest on the



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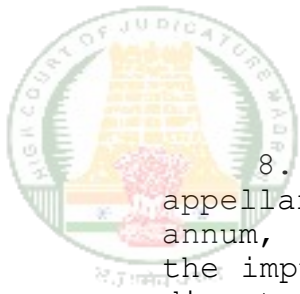
compensation awarded to me and I do not intend to claim reference for enhancement of compensation. I respectfully submit that it is therefore prayed that this Hon'ble Court may be pleased to take on record my affidavit and grant me compensation with interest at the rate of 15% per annum as contemplated under Section 34 of the Land Acquisition Act, 1894."

7. Proviso to Section 34 of the Act extracted below clearly tells the parties that if the compensation is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of 15% per annum shall be payable from the date of expiry of the said period of one year on the amount of compensation.

"34. Payment of interest. ?When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of nine per centum per annum from the time of so taking possession until it shall have been so paid or deposited:

Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry.

In the case on hand, in the light of the above provision, that one year period as adumbrated in proviso to Section 34 expires on 25.03.2003, for, the lands owned by the appellant were handed over to TIDCO/third respondent on 26.03.2002. But, this has been overlooked by the learned Single Judge. Secondly, after the award was passed on 31.12.2001 by the Land Acquisition Officer, no doubt, the Tahsildar concerned said to have handed over the compensation to the appellant, which he had refused to receive the same, therefore, the said sum was kept in Revenue Deposit in Challan No.ST/31, dated 28.03.2002 in Sub-Treasury, Saidapet. Ultimately, it shows that the District Collector concerned has failed to deposit the compensation with interest at 15% per annum in the reference Court as mandated under the proviso to Section 34 of the Act.



8. In any event, now, as the parties have agreed that the appellant is entitled to get the interest at the rate of 15% per annum, in the interest of giving quietus to the issue, modifying the impugned order passed by the learned Single Judge, we hereby direct the respondents to pay the interest at the rate of 15% per annum from 26.03.2003 onwards. Since the third respondent has already deposited the entire compensation along with interest at the rate of 12% per annum, the said authority is directed to pay the balance interest of 3% in the reference Court, namely, Sub Court Ponneri, within a period of two weeks from the date of receipt of a copy of this judgment. On deposit of such payment, the Sub-Court, Ponneri, is directed to permit the appellant to withdraw amount so deposited by the third respondent. Needless to state that in view of affidavit of undertaking dated 14.08.2021 filed by the appellant, after the withdrawal of the amount together with interest at 15% per annum by him, pending reference in LAOP No.49 of 2018 will stand automatically closed.

In fine, the writ appeal stands disposed of with the above directions. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rkm

To

1. The Secretary,
Housing & Urban Development,
Fort St. George,
Chennai - 9.
2. The District Collector,
Kanchipuram District.
3. The Special Tahsildar (Land Acquisition I),
Marimalai Nagar Scheme,
Kattankolathur,
Chengalpet Circle,
Kanchipuram District.



4. The Member Secretary,
CMDA, No.8, Thalaimuthu Natarajan Malaigai,
Egmore,
Chennai - 8.

Copy To:

The Subordinate Judge,
Ponneri.

+1cc to Mr.L.P.Maurya, Advocate, S.R.No.41122
+1cc to M/s.King & Partridge, Advocate, S.R.No.41411
+1cc to the Government Pleader, S.R.No.41487

W.A.NO.1046 OF 2018

GPL (CO)
PBS/14/09/2021