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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.12669 OF 2004

AND

W.P.M.P.NO.14784 OF 2004

P.Thangam

... Petitioner

.Vs.

1. The District Collector,
Chengalput District,
Chengalput.

2. The Land Acquisition Officer and
Revenue Division Officer,
Chengalput.

... Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records relating the Award No.2 of 2002 dated 16.12.2002 passed by the second respondent and quash the same and forbearing the respondents from acquiring the petitioner's land in S.No.150/1A1A3C in 105, Kadaperi Village, West Tambaram, Saidapet Taluk, Chengalpet District ad-measuring about 1083 sq.ft.

For Petitioner : Mr.J.James

For Respondents: Mr.M.R.Gokul Krishnan
Government Advocate

O R D E R

This writ petition is filed to issue a writ of Certiorarified Mandamus, calling for the records relating the Award No.2 of 2002 dated 16.12.2002 passed by the second respondent and quash the same and to forbear the respondents from acquiring the petitioner's land comprised in S.No.150/1A1A3C situated at 105, Kadaperi Village, West Tambaram, Saidapet Taluk, Chengalpet District ad-measuring about 1083 sq.ft.



2. The case of the petitioner is that he owned a house plot comprised in S.No.150/1A1A3 ad-measuring 1869 sq.ft situated at No.105, Kadapperi Village, Tambaram West, Saidapet Taluk, Chengalpet District. Subsequently, he sold out 886 sq.ft out of 1869 sq.ft and remaining land 1083 sq.ft is in possession and enjoyment of the petitioner. While that being so, the Government in G.O.Ms.No.464, Revenue Department, dated 14.03.1984 have sanctioned the formation of link road for Tambaram Municipality. Accordingly, a proposal under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act' for short) was approved by the first respondent, vide Order No.4428/93 F1, dated 07.12.1999 and it was published in the District Gazette dated 08.01.2000 and the same was published in newspapers on 11.03.2000 and 12.03.2000. The substance of the notification was published in the locality on 20.03.2000. Thereafter, notice under Section 5A of the Act was issued on 14.04.2000 and the same was served on the petitioner's brother-in-law only on 09.05.2000, thereby directing the petitioner to file objections within 30 days from the receipt of the notice. The enquiry was conducted on 05.05.2000. However, the petitioner submitted his objections on 29.05.2000. The objection of the petitioner, reads as follows:-

"(1) My land is an house site not at all required for the formation of a 'Link Road'.

(2) I owned an extent of 1869 sq.ft out of a total of 13 cents. I acquired title by purchasing it on 16.06.1984. Subsequently I sold 886 sq.ft out of 1869 sq.ft to one Mr.Pasalian S/o.Nasarath Kumar.

(3) There are two pucca Macadamised Road on the North (Rajagopal Street) and South (St.Lutheran Church Road) of my said land.

(4) The said two roads are sufficiently serving the traffic needs of all the people of my locality/public.

(5) The said Roads connects the Tomas Street and the G.S.T.Road on the East and there is no need at all to link the said Roads over my property and it is absolutely meaningless.

(6) The notice mentioned acquisition is only a game plan of the Local Politician, as the proposed "Link Road" over my said land will not serve any purpose much less public purpose.

(7) If an extent of 1044 sq.ft covering a length of 6772 is acquired I will be left with a narrow strip of land of a width of only 12 which cannot be put to any proper use and I will be put to serious loss and damage by the proposed acquisition, as the utility and value of my remaining land gets affected totally and loses its sale value absolutely.

(8) The residents living in both Rajagopal street on the North and the Lutheran Church Street, on the



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South may not use the proposed link road as the sai roads are the shortest roads to reach G.S.T.Road for all their practical purposes.

(9) I already obtained decree restraining the Tambaram Municipality from interfering with my property in O.S.No.805/93 on the file of District Munsif Court/Tambaram Municipality entered into a compromise in O.S.No.938/93 which reveals the fact that the proposed acquisition is not at all relevant. Such proposal is neither proper nor necessary for any purpose."

3. Whereas, the respondents did not conduct any enquiry on his objections and also the petitioner was not served with any objections raised by requisitioning body viz., The Tambaram Municipality. Thereafter, they issued a declaration notice under Section 6 of the Act on 31.10.2000 and the same was published in the Government Gazette on 22.11.2000. Further, they issued an Award Enquiry notice under Section 9(3) of the Act dated 20.11.2002. The said notice was served on the petitioner only on 31.12.2002 stating that the award enquiry will be conducted on 25.11.2002. However, it was received by the petitioner only on 08.01.2003 and immediately the petitioner also sent the objections for the award enquiry. However, the award enquiry was conducted on 25.11.2002 and the award has also been passed in Award No.2 of 2002 dated 16.12.2002.

4. The learned counsel for the petitioner submitted that even assuming that the notice under Section 9(3) of the Act was served on the petitioner on 20.11.2002, the enquiry was fixed on 25.11.2002. Therefore, the period of 15 days was not given to the petitioner to participate in the award enquiry. Though in the award, the respondents stated that the petitioner appeared for the award enquiry, the petitioner had received notice under Section 9(3) of the Act only on 08.01.2003 and the said notice itself was sent by registered post only on 31.12.2002. This is evident from the postal cover produced by the petitioner dated 31.12.2002. He also raised another ground that the award has not been passed within a period of 2 years from the date of declaration notice under Section 6 of the Act as contemplated under Section 11(A) of the Act.

5. On a perusal of the records, it reveals that the award has been passed on 16.12.2002, whereas the draft notification was published on 08.01.2000. Therefore, admittedly, the award has been passed after a period of two years viz., on 16.12.2002. In this context, it is relevant to extract Section 11A of the Act, which reads as follows:-

"11A. Period within which an award shall be made
The Collector shall make an award under Section



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11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:

Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984, the award shall be made within a period of two years from such commencements.

Explanation: In computing the period of two years referred to in this section, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a court shall be excluded."

6. Accordingly, the first respondent shall make an award within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse.

7. In the case on hand, admittedly, the award has been passed after two years and as such, the entire acquisition proceedings cannot be sustained. That apart, the petitioner was not served with the notice under Section 9(2) of the Act and he was not given 15 days time to participate in the award enquiry. It is relevant to extract of Section 9(2) of the Act, which reads as follows:-

"9. Notice to persons interested

...(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, and their objections (if any) to the measurements made under Section 8. The Collector may in any case require such statement to be made in writing and signed by the party or his agent."

8. Thus, as per Section 9(2) of the Act, all persons only in the lands to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation.



9. In the case on hand, the notice was issued under Section 9(3) of the Act on 20.11.2002 and award enquiry was conducted on 25.11.2002. Therefore, within a period of 4 days from the notice, the award enquiry was conducted and the award has been passed on 16.12.2002. It is also curious to note that the notice under Section 9(3) of the Act was received on the petitioner only on 08.01.2003. The said notice itself was sent by registered post only on 31.12.2002. Therefore, it is also violation of the provisions under Section 9 of the Act.

10. In view of the above discussion, the impugned Award dated 16.12.2002 is hereby quashed. Accordingly, this Writ Petition is allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Chengalput District,
Chengalput.
2. The Land Acquisition Officer and
Revenue Division Officer,
Chengalput.

+1cc to Mr.J.James, Advocate, S.R.No.48047
+1cc to the Government Pleader, S.R.No.48503

W.P.No.12669 of 2004

MG(CO)
CS/02/11/2021