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C.R.P. (PD) No. 1238 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **13.12.2021**

CORAM:

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

C.R.P. (PD) No.1238 of 2019
and C.M.P. No.7957 of 2019

The Special Tahsiladhar,
Land Acquisition Unit – II,
Chennai Metro Rail Limited,
Koyembedu,
Chennai – 600 001.

...Petitioner

Versus

M.Thirugnanam

...Respondent

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 04.04.2018 passed in Memo filed under S.R.No.21108 of 2018 in L.A.O.P. No.56 of 2015 on the file of VI Assistant City Civil Court, Chennai as ultra virus and consequently to set aside the amendment carried out in the cause title of the judgment and decree dated 18.12.2017 passed in L.A.O.P. No.56 of 2015 on the file of VI Assistant City Civil Court, Chennai.

For Petitioners : Mr. C.Shankar

For Respondents : Mr. M.Syed Ibrahim



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ORDER

This Civil Revision Petition is directed against the order passed in memo dated 02.04.2018 in L.A.O.P. No.56 of 2015 on the file of the VI Assistant City Civil Court, Chennai.

2. Brief facts that are necessary for the disposal of the Civil Revision Petition are as follows:

The revision petitioner is the Special Tahsildar, Land Acquisition Unit – II, Chennai Metro Rail Limited, Koyembedu, Chennai – 600 001. It is admitted that certain lands were acquired for the purpose of Kodambakkam Metro Rail Project under the Land Acquisition Act (Central) and award was passed for a sum of Rs.52,05,230/- for the lands acquired from the claimants. Aggrieved the award of the Land Acquisition Officer namely the revision petitioner, the claimant filed an application under Section 18 of the Land Acquisition Act, to fix the just market value for the lands acquired from the claimant. Sections 18 and 19 of the Land Acquisition Act reads as follows:

“18. Reference to Court:- (1) Any person interested who has not accepted the award may, be written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the



compensation, the persons to whom it is payable, or the appropriate of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made,---

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.

19. Collectors statement to the Court:- *(1) In making the reference, the Collector shall state for the information of the Court, in writing under his hand,---*

(a) the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon;

(b) the names of the persons whom he has reason to think interested in such land;

(c) the amount awarded for damages and paid for tendered under sections 5 and 17, or either of them, and the amount of compensation awarded under section 11; and

(d) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested respectively.



3. It is seen that the claimants have filed a petition under Section 18 of the Act for reference before the petitioner. From Sections 18 and 19 of the Land Acquisition Act it is seen that the Land Acquisition Officer who is appointed as Collector under the Act is the person authorised to refer the dispute to Civil Court if he receives an application from the land owners with regard to any objection on quantum of compensation. The application submitted by the claimant for enhancement of compensation shall be referred to the Court with relevant particulars. It is the duty of the referring officer to give all the particulars including the names of the persons interested in the land. Even if the Collector fail to name all the persons who are interested, it is not necessary that the award in entirety will go. In such circumstances, the land owner / claimant cannot be blamed for not including the name of either the requisition body or the official who was appointed as Collector for the purpose of completing the acquisition. However, it is admitted that reference was entertained by the Court by showing the Land Acquisition Officer cum Special Deputy Collector, Tamil Nadu Urban Development Project-III, Chennai, as Land Acquisition Officer. As a result, without issuing notice to the Special Tahsildar, Land Acquisition Unit, Chennai Metro Rail Limited, before whom the petition is filed under Section 18 of the Act, the reference Court has determined the compensation. Aggrieved by the judgment and decree in L.A.O.P. No.56 of 2015, the Special



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Tahsildar, Land Acquisition Unit, Chennai Metro Rail Limited, ought to have preferred an appeal immediately after coming to know about the disposal of the L.A.O.P. No.56 of 2015.

4. This Court is unable to dismiss this Civil Revision Petition on technical ground in view of the fact that serious prejudice is caused to the revision petitioner on account of some mistake in the course of reference. By the order impugned in the Civil Revision Petition, the revision petitioner is brought on record in the place of Special Tahsildar, Land Acquisition. Without any opportunity being granted to the revision petitioner, the proceedings before the reference Court cannot be concluded. By an application which appears to be a formal one, the petitioner is now facing the award enhancing compensation. It is in these circumstances, this Court is of the view that the petitioner cannot be blamed for not impleading himself before the reference Court earlier. The reference Court has committed a mistake in not sending notice to the Requisition Department or the Special Tahsildar the concerned Land Acquisition Officer, before enhancing compensation.

5. Learned counsel appearing for the petitioner submitted that though the Court is empowered to amend the decree under Section 152 C.P.C., the amendment should be confined to clerical or arithmetic mistakes in judgments or decrees or orders which are all due to accidental slip or omission. However,



a person without being impleaded as a party before the reference Court cannot be introduced as the respondent, surprisingly, to suffer the award of the reference Court by enhancing compensation. Since the petitioner did not challenge the award of reference Court, this Court is of the view that there will be further complication which will not be good to both. It is seen that the claim for enhancement was not defended by other respondents before the reference Court by filing objection. Strictly speaking, the award is not binding on the land acquisition Officer or the requisition body and hence it cannot be enforced also.

6. To shorten the litigation, this Court is inclined to pass the following order in exercise of its power under Article 227 of Constitution of India:

The order passed by the learned VI Assistant Civil Judge, Chennai, in memo dated 04.04.2018 in S.R. No.21108 of 2018 in L.A.O.P. No.56 of 2015 is hereby set aside. The award / judgment and decree in L.A.O.P. No.56 of 2015 dated 18.12.2017 is declared invalid as against the revision petitioner. The revision petitioner is suo-motu impleaded as third respondent in L.A.O.P. No.56 of 2015 pending before the VI Assistant Civil Judge, Chennai. The reference Court is directed to commence the proceedings afresh. The reference Court shall proceed with the enquiry and dispose of the proceedings after



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giving opportunity to the revision petitioner and the claimants, as expeditiously as possible, preferably within a period of twelve weeks from the date of receipt of a copy of this order. It is open to the reference Court to implead the requisition body in the course of proceedings so as to ensure effective adjudication.

7. Accordingly, this Civil Revision Petition is allowed with further direction indicated above. No costs. Consequently, connected miscellaneous petition is closed.

13.12.2021

Index: Yes/ No
Speaking Order / Non-Speaking Order
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Copy to:

The VI Assistant Civil Judge, Chennai.



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S.S.SUNDAR, J .,

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