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IN THE HIGH COURT OF JUDICIATURE AT MADRAS

DATED : 07.10.2021

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

W.A.No.2447 of 2019

Gururaj
represented by his Power of Attorney
Vanniyaraj ... Appellant

versus

1.The District Collector,
Thiruvallur District.

2.The Special Thasildar (LA),
Ponneri Taluk,
Thiruvallur District.

3.Vanniyaraj

4.Devikani ... Respondents

(R3 and R4 suo motu impleaded as party respondents
vide Court order dated 23.10.2019 made in W.A.
No.2447/2019 (NKKJ & PVJ))

Prayer: Appeal filed under Clause 15 of the Letters Patent
against the order dated 06.02.2019 passed by the learned Single
Judge in W.P. No.3431 of 2019.

WP.No.3431/2019: This Writ Petition is filed under Article 226 of
the Constitution of India to issue a writ of Mandamus, Directing
to the respondents to refer the petition of the petitioner dated
12.12.2018 to the Civil Court Under Section 18 of Land
Acquisition Act 1894 for deciding the enhancement of compensation
for the land acquired from the petitioner and pass such for them
order:



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For Appellant : Mr.T.Saravanan

For Respondents : Mr.V.Manoharan,
Government Advocate
for R1 and R2

Mr.R.Abdul Mubeen for R3

Mr.R.S.Anandhan for R4

JUDGMENT

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

This writ appeal has been directed against the impugned order dated 06.02.2019 passed in W.P. No.3431 of 2019.

2.Learned counsel appearing for the appellant submitted that the property situated at S.No.654/2D, Thiruvottiyur High Road, Goundarpalayam Village, Ponneri Taluk, Thiruvallur District to an extent of 0.01.0 hectares was acquired by the Highways Department for the Panchatty Highway Scheme through the Special Thasildar (LA), Thiruvallur District, the second respondent herein. With this background, when the appellant came to this Court for issuance of writ of mandamus seeking a direction to the respondents therein to refer the petition dated 12.12.2018 of the appellant to the Civil Court under Section 18 of the Land Acquisition Act, 1894 for deciding enhancement of compensation for the land acquired from the appellant, the same was refused by the learned Single Judge on the ground that the petitioner has not made any objection during award enquiry and therefore, he is not entitled to any relief. Challenging the same, the present appeal has been filed. Reiterating the same stand, the learned counsel appearing for the appellant sought for interference with the impugned order.

3.Learned counsel appearing for the third respondent, who is suo motu impleaded by this Court, submitted that the third respondent is the husband of fourth respondent and he had filed a suit in O.S. No.57 of 2000 before the Sub Court, Ponneri against the fourth respondent seeking for a declaration declaring that he has the right over the suit property. Although an exparte decree was passed in favour of the third respondent on 21.08.2000, it is



not known as to why the fourth respondent has not filed any appeal to set aside the exparte order and now the same had become final. Hence, the learned counsel for the third respondent prays for dismissal of this appeal.

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4.Learned counsel appearing for the fourth respondent, who is also suo motu impleaded by this Court, by filing a counter affidavit, submitted that the fourth respondent purchased a property in Survey No.654/2D measuring an extent of 10 cents in Gounderpalayam, No.144, Vallur II Village, Meenjur Firka, Ponneri Taluk by way of a Sale Deed dated 14.07.1993 registered as Document No.1939 of 1993 before the Sub Registrar Office, Thiruvotriyur and she has developed the same by constructing residential house and two shop premises. While so, she received a show cause notice to take part in the enquiry to be held on 10.08.2007, in which, the appellant herein was also called for the enquiry. After verification of her documents, the second respondent found that she is entitled for compensation for the land acquired. Pending the acquisition proceedings, since the third respondent herein attempted to interfere with the possession of the said property, the fourth respondent filed a suit in O.S. No.197 of 2008 on the file of the District Munsif Court, Ponneri for permanent injunction against the third respondent. In the said suit, even after receipt of notice, as the third respondent failed to appear, he was set exparte and an exparte decree was passed on 18.09.2008. Against the same, when the third respondent filed a Civil Revision Petition in C.R.P. No.462 of 2013 before this Court, by order dated 12.02.2019, this Court dismissed the same. Subsequently, the appellant alleged to have submitted a representation, which was represented by his power agent Vanniyaraj, the third respondent herein requesting the first respondent to refer the matter to Court for enhancement of the compensation. Subsequently, when the appellant filed the above writ petition in W.P. No.3431 of 2019 before this Court represented by his power agent, the same was dismissed on 06.02.2019 and as against the same, he has filed the present Writ Appeal. Therefore, the learned counsel prays for dismissal of this appeal.

5.Heard Mr.T.Saravanan, the learned counsel appearing for the appellant, Mr.V.Manoharan, learned Government Advocate appearing for R1 and R2, Mr.R.Abdul Mubeen, learned counsel appearing for R3 and Mr.R.S.Anandhan, learned counsel appearing



6.It is the claim of the appellant that the land in question was purchased by him under a Sale Deed dated 07.01.2002 and the same was acquired by the Highways Department for the Panchatty Highway Scheme through the Special Thasildar (LA), Thiruvallur District, the second respondent herein. Thereafter, he made a claim in the Award Enquiry and requested to pay the compensation.

7.A perusal of the Award dated 21.10.2009 passed by the Land Acquisition Officer and District Collector, Tiruvallur shows that in the Award Enquiry, Devikani, the fourth respondent herein had appeared and given her statement, by producing a copy of the Document No.1939 dated 14.07.1993 for having purchased the above land and she has not produced any documentary evidence to substantiate her claim. In the said enquiry, she has stated that a suit is pending regarding ownership of the land.

8.The above Award further reveals that the appellant through his counsel has filed a petition stating that the property was purchased by him from Vanniaraj, husband of Deivakani as per Document No.47/2002 dated 07.01.2002 and requested to pay the compensation and the counter claim put forth by the fourth respondent cannot be entertained. It further reveals that the dispute regarding ownership of the property comes under Section 21(2) of the Tamil Nadu Highways Act 2001 and therefore, the amount of compensation as worked out therein was ordered to be kept under C.C.D. under Section 22(3) of the Tamil Nadu Highways Act 2001.

9.It is seen that when the third respondent, husband of fourth respondent had filed a suit in O.S. No.57 of 2000 before the Sub Court, Ponneri against the fourth respondent seeking for a declaration declaring that he has the right over the suit property, an exparte decree was passed in favour of the third respondent on 21.08.2000. However, the fourth respondent herein also filed a suit in O.S. No.197 of 2008 on the file of the District Munsif Court, Ponneri for permanent injunction against the third respondent and in the said suit, the third respondent was set exparte and an exparte decree was passed in favour of the fourth respondent on 18.09.2008. When the appellant has come to this Court with the above W.P. No.3431 of 2019, the learned



Single Judge finding that the appellant has not made any objection during award enquiry and therefore, he is not entitled to any relief, has dismissed the said writ petition.

10. Since it is a clear case of dispute regarding the ownership of the property and therefore, in the award enquiry, it was observed that the amount of compensation as worked out therein was ordered to be kept under C.C.D. under Section 22(3) of the Tamil Nadu Highways Act 2001 and the same was ordered to refer the case to the Sub Court, Ponneri for taking decision, we are unable to entertain this appeal. Moreover, no one has given any proper explanation whatsoever for not approaching this Court for the past ten long years. Therefore, the conclusion reached by the learned Single Judge that the appellant has not made any objection during award enquiry and therefore, he is not entitled to any relief, cannot be found fault with. Accordingly, this writ appeal stands dismissed. No costs.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

vga

To

1.The District Collector,
Thiruvallur District.

2.The Special Thasildar (LA),
Ponneri Taluk,
Thiruvallur District.

3.The Sub Court,
Ponneri,

4.The District Munsif,
Ponneri,

+1cc to M/s.T.Saravanan, Advocate, S.R.No.53252

+1cc to M/s.R.S.Anandan, Advocate, S.R.No.52536

+1cc to the Government Pleader, S.R.No.53141

W.A.No.2447 of 2019

AD(CO)

SB(02/11/2021)