



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2021

CORAM:

THE HON'BLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

W.P.No.16575 of 2021

M.Jayanthi

... Petitioner

Vs.

1.The Special District Revenue Officer,
Chennai-Kanyakumari
Industrial Development Project,
Ko.C.Mani Nagar,
Kumbakonam.

2.The Divisional Engineer,
Highways Department,
Chennai-Kanyakumari, Industrial Project,
Kumbakonam.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 1st respondent to issue notice and conduct award enquiry for fixing and paying the compensation under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 before taking possession of petitioner's land measuring to an extent of 1822 sqm out of 0.67.0 Hectare (equivalent to 73030 sqft or 6787 sqm) bearing Patta No.696, comprised in Survey No.290, Mozhaiyur Revenue Village, Mayiladuthurai Taluk.

For Petitioner : Mr.A.Veerasamy
For Mr.B.Ram Kumar

For Respondents : Mr.V.Veluchamy
Government Advocate

ORDER

This writ petition has been filed for issuance of a Writ of Mandamus, to direct the 1st respondent to issue notice and conduct award enquiry for fixing and paying the compensation under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 before taking possession of petitioner's land measuring to an extent of 1822 sqm out of 0.67.0 Hectare (equivalent to 73030 sqft or 6787 sqm) bearing Patta No.696, comprised in Survey No.290, Mozhaiyur Revenue Village, Mayiladuthurai Taluk.



2. The petitioner has purchased a wet agricultural land measuring to an extent of 0.67.0 hectare (73030 sqft or 6787 sqm) and Patta No.696 comprised in Survey No.290, Mozhaiyur Revenue Village, Mayiladuthurai Taluk from one Akbardeen by way of a registered sale deed dated 29.03.2012 vide Doc.No.816 of 2012 on the file of Sub Registrar Office, Mayiladuthurai. Subsequently, the respondents had acquired the aforesaid land. Thereafter, she has filed a writ petition in W.P.No.11034 of 2020 and the same was disposed by order dated 19.08.2020, observed that "notice only u/s.15(2) of the Highways Act is issued on 06.08.2020". Pursuant to the same, the petitioner sent a detailed representation dated 31.08.2020 to the respondents seeking to drop the land acquisition. Thereafter, the first respondent has issued a notice dated 23.06.2021 u/s.19(5) of Tamil Nadu Highways Act, 2001 calling upon her to attend the enquiry to be held on 08.07.2021 for deciding the compensation, on that date, the first respondent has handed over a printed format of undertaking in which she was asked to sign. However, the respondents have no authority to acquire her possession without fixing and paying compensation under the provision of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Therefore, the petitioner has come forward with the present writ petition.

3. Counter affidavit has been filed by the first respondent stating that it has been proposed for widening the State Highway Road SH-64 Kumbakonam - Sirkali Road from KM41/060 to KM 41/940 including widening of Two Lane with paved shoulders, under the Chennai-Kanyakumari Industrial Corridor Project. Subsequently, detailed enquiry and investigation was conducted and detailed project report was approved on 24.09.2019 to assess the extent of land to be acquired, field measurement survey was conducted and peg marked for future identification. He further submitted that during the pendency of this writ petition, no notices were served to her and that, stones were laid in her land from Chennai - Kanyakumari Road Project. Thereafter, LAO served a notice in Rc.No.35/2020/A2/ (SH-66) dated 09.09.2020 to all the land owners requesting them to attend for enquiry, the petitioner's representative who attended the enquiry but a representative of the petitioner refused to sign any documents and the petitioner has not produced any documents in support of her statement regarding the land value. He further submitted that the compensation has been fixed as per Secs.26 to 30 of the RFCTLARR Act, 2013 in accordance with law. Therefore, the acquisition is inevitable as the process of acquisition was completed and the award has been passed on 05.08.2021 and the individual award was served to the petitioner, since the petitioner has not submitted the relevant document, the compensation amount has been kept in SDRO account, hence, the writ petition may be dismissed.



4. The learned counsel appearing for the petitioner submitted that the petitioner will be satisfied if a direction is issued to the 1st respondent to consider the petitioner's objection dated 31.08.2020 and dispose of the same within a stipulated time that may be framed by this Court.

5. Having regard to the limited scope of the prayer that is now sought for in this writ petition before this Court and taking into account the submissions made on either side, without expressing any opinion on the merits of the petitioner's representation or the case pleaded by the petitioner in the present writ petition, the Writ Petition is disposed of, the petitioner is hereby directed to appear before the officials of the respondents and produce the relevant documents in respect of the aforesaid land acquisition proceedings to prove the ownership of the said land and thereafter, the first respondent is hereby directed to consider the petitioner's objection dated 31.08.2020 and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner and necessary parties concerned within a period of eight weeks from the date of receipt of a copy of this order. Consequently, WMP.No. 17554 of 2021 is also closed. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

gba/msm

To

1.The Special District Revenue Officer,
Chennai-Kanyakumari
Industrial Development Project,
Ko.C.Mani Nagar,
Kumbakonam.

2.The Divisional Engineer,
Highways Department,
Chennai-Kanyakumari, Industrial Project,
Kumbakonam.

+1cc to Mr.M.Narayanaswamy, Advocate SR. No. 54515

+1cc to Government Pleader SR. No. 55369

W.P.No.16575 of 2021

NK (CO)

PR (10/12/2021)

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