



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.39505 of 2016
and W.M.P.Nos.33790 and 33791 of 2016

M.A.Gani

...

Petitioner

-Vs-

1. The District Collector
Kancheepuram District,
Kancheepuram.
2. The Chairman and Managing Director
Tamil Nadu Slum Clearance Board,
No.5, Kamaraj Salai,
Chennai - 600 005.
3. The Executive Engineer / Estate Officer
Tamil Nadu Slum Clearance Board,
Sivalingapuram, K.K.Nagar Division,
Chennai - 600 078.
4. The Highways Rural Development Corporation
Rep. by its Special Tahsildar (Land Acquisition)
2nd Floor, Alandur Municipality Office,
Alandur, Chennai.
5. The District Revenue Officer
Chengalpet,
Kancheepuram District.
6. The General Manager
Southern Railway,
Chennai - 600 003.
7. The Secretary to Government
Highways (NH2) Department,
Secretariat, St. George Fort,
Chennai - 600 009.
8. The Assistant Divisional Engineer
(Highways - Planning Division-II)
Chengalpet, Kancheepuram District. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to consider the petitioner's representations dated 10.06.2016 followed by 27.09.2016 and 17.10.2016 regarding the



alternate allotment concerning the vacant house plot situated at Urapakkam with linear measurements not less than 1582 sq.ft. without imposing any conditions or restrictions, for the loss incurred relating to the acquisition of petitioner's house plot bearing No.149, measuring 1582 sq.ft., situated in Chelliamman Nagar, Kelambakkam, Vandalur, Chennai-45 with building thereon for the Railway Over Bridge Project of the respondents and further directing the Respondents to pay a sum of Rs.62,00,000/- (Rupees Sixty Two Lakhs only) towards compensation for the acquisition of the petitioner's property under the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

For Petitioner : Mr.S.L.Sudarsanam

For Respondents : Mr.Richardson Wilson
Counsel for the Government for R1, R4, R5,
R7 and R8
Mr.S.Prabhu
Standing Counsel for R2 and R3
Mr.P.T.Ramkumar
Standing Counsel for R6

O R D E R

The prayer sought for in this writ petition is for a writ of mandamus, to consider the petitioner's representations dated 10.06.2016 followed by 27.09.2016 and 17.10.2016 regarding the alternate allotment concerning the vacant house plot situated at Urapakkam with linear measurements not less than 1582 sq.ft. without imposing any conditions or restrictions, for the loss incurred relating to the acquisition of petitioner's house plot bearing No.149, measuring 1582 sq.ft., situated in Chelliamman Nagar, Kelambakkam, Vandalur, Chennai-45 with building thereon for the Railway Over Bridge Project of the respondents and further directing the Respondents to pay a sum of Rs.62,00,000/- (Rupees Sixty Two Lakhs only) towards compensation for the acquisition of the petitioner's property under the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2. The landed property in Plot No.149, measuring to an extent of 147 sq.mt (1582 sq.ft.) under the scheme called "Chelliamman Nagar" approved by CMDA in S.No.171 situated at Chelliamman Nagar, Kelambakkam, Vandalur, Chennai, was allotted to the petitioner by the proceedings of the second and third respondent in the year 1997.

3. Thereafter after getting NOC from the second and third respondent, the petitioner seems to have built up house there and he has been residing there. According to the petitioner,



the entire sale consideration has been paid to the third respondent, however, the sale deed seems to have not been executed by the Slum Clearance Board to and in favour of the petitioner.

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4. When that being so, the plot along with some other land seems to have been acquired by the concerned authority under the Tamil Nadu Highways Act for the public purpose. Pursuant to the acquisition, it seems that, the respondents, i.e., the acquisition authorities took a stand that, the petitioner though constructed a house and has been residing there in the subject land, since the land in question has not been allotted by the Slum Clearance Board, for which no compensation can be given, therefore, if at all the petitioner is entitled to get compensation, he shall be paid the compensation only for the superstructure.

5. Accordingly, compensation amount has been quantified for paying the same to the superstructure, by thus the claim of the petitioner to pay compensation for the land value seems to have been rejected.

6. Only at that juncture, the petitioner has moved this writ petition with the aforesaid prayer either to seek for alternative land with an equal extent or to pay the compensation for both the land as well as the superstructure, that too under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition (Rehabilitation and Resettlement) Act, 2013 (in short "2013 Act")

7. Reiterating the said factual matrix as projected by the petitioner, Mr.S.L.Sudarsanam, learned counsel appearing for the petitioner has submitted that, the land in question was allotted to the petitioner by the Slum Clearance Board and after getting NOC, building was constructed and the petitioner had been residing there. When that being so, even though full sale consideration had been paid to the Slum Clearance Board, they have not executed the sale deed, therefore, that will not preclude the petitioner from claiming alternative site or full compensation for the land as well as the building also.

8. Therefore in this regard, the stand taken by the respondents not to pay the compensation for the land is untenable, hence a direction can be given to the respondents to calculate and pay the compensation to both the land as well as the building belongs to the petitioner.

9. Per Contra, Mr.S.Prabhu, learned standing counsel appearing for the Tamil Nadu Slum Clearance Board has submitted that, though the land in question was allotted to the petitioner under the scheme called Chelliamman Nagar scheme, the title of the land in question stood in the name of the Slum Clearance Board alone at the time of acquisition



proceedings, therefore, strictly speaking the title has not been transferred in the name of the petitioner. Therefore if at all he is entitled for compensation, he shall be entitled only for the superstructure and not for the land cost.

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10. The said stand of the Slum Clearance Board also had been endorsed by the acquisition authorities also at one point of time when the case was taken up for hearing.

11. However the said argument, after was heard by a learned Judge of this Court, was negated and accordingly, the learned Judge on 17.03.2020 has passed a detailed interim order and in order to appreciate the same, the relevant portion of the said order is quoted hereunder :

"2. The question is as to what would be the impact of this on the petitioner. In the considered view of this Court, the non-alienation by the Government to the Tamil Nadu Slum Clearance Board can have no effect on the petitioner's claim for compensation. It is an internal matter and if the Government and the Tamil Nadu Slum Clearance Board have slept over the matter, it cannot affect the petitioner's right. Precisely, for this reason compensation was paid for the superstructure which was demolished. For all purposes, the petitioner is the lawful owner of the property concerned and if the petitioner is not willing to accept the alternate land, then the only alternative available to the respondents is to pay reasonable compensation and the petitioner cannot be compelled to accept the alternate land, more so, when the plea is that the entire property has been demolished to facilitate the ROB."

12. Therefore it has been concluded by the said order of the learned Judge that, the petitioner is entitled for the compensation not only for the superstructure but also the land cost and also it has been held by the learned Judge that, the authorities cannot compel the petitioner to take an alternative site and it is for the petitioner to do it, either to take alternative site or otherwise he is entitled for the full compensation for the land as well as the building.

13. Only at that juncture, the writ petition has been pending for further action to be taken in this regard.

14. When that being so, when this writ petition came up for further hearing on 23.06.2021, Mr. Richardson Wilson, learned counsel for the Government appearing for the respondents 1, 4, 5, 7 and 8 has produced a communication issued



by the District Revenue Officer, Chengalpet in Na.Ka.No.10985/2012/M3, dated 22.06.2021, wherein inter alia, it has been stated that, pursuant to the orders referred to above passed in this writ petition, during the pendency of the writ petition, on 17.03.2020, the respondents having accepted the same, proceeded to calculate the compensation payable to the petitioner for the land cost also and accordingly, they calculated a sum of Rs.21,19,880/- as the total compensation payable to the petitioner and on production of the said communication of the DRO concerned, dated 22.06.2021, on the other day, the learned counsel for the Government appearing for the respondents 1,4,5,7 and 8 argued stating that, in view of the said compensation having been calculated that would be paid to the petitioner in due course in accordance with the procedure established in this regard and therefore, a quietus can be given to the issue raised by the writ petitioner in the present writ petition.

15. On that date, the learned counsel appearing for the petitioner wanted some time to go through the proceedings of the DRO, Chengalpet, dated 22.06.2021 and to respond the same, accordingly, today when the case is taken up for final disposal, Mr.S.L.Sudarsanam, learned counsel appearing for the writ petitioner, on instruction would submit that, in view of the present proceedings issued by the DRO, Chengalpet, dated 22.06.2021, now an amount of Rs.21,19,880/- has been fixed as a compensation for the land at 1582 sq.ft and according to the petitioner, the said compensation is not adequate and therefore, in order to enhance the said compensation, the petitioner will explore the possibility of approaching the concerned authority under the provisions of the Tamil Nadu Highways Act, under which the land in question was acquired, for referring the matter to the competent Court for enhancement of compensation by taking into account the provisions of the 2013 Act, he contended.

16. In response to the same, Mr.Richardson Wilson, learned counsel for the Government appearing for the respondents 1,4,5,7 and 8 would submit that, as far as the acquisition authority is concerned, now the issue has been concluded as they have determined the compensation to that extent for the land as well as the building. In so far as the building compensation, since has already been paid to the petitioner, which has been accepted by the petitioner, ofcourse under protest, now in view of the present proceedings issued by the DRO, dated 22.06.2021, the issue has been concluded from the part of the respondents. However, it is open to the petitioner to agitate the issue, if he is not satisfied with the said quantum in the manner known to law, especially under the Tamil Nadu Highways Act.

17. In this context, the learned counsel for the Government appearing for the respondents 1,4,5,7 and 8 would further point out that, if at all the petitioner wants to



pursue the matter further under Section 20 of the Tamil Nadu Highways Act, the limitation of 60 days period would be taken into account from 22.06.2021, i.e., the date of the proceedings of the DRO and the said limitation period shall be strictly followed in such reference if anything to be made by the petitioner in future.

18. I have considered the said submission made by the learned counsel for the parties and have perused the materials placed before this Court.

19. As has been rightly pointed out by the learned counsel for the Government appearing for the respondents 1,4,5,7 and 8, now the issue insofar as paying the compensation as per the calculation made by the respondents, i.e., the acquisition authority is concerned is concluded by issuance of the proceedings, dated 22.06.2021 by the DRO, Chengalpet as referred to above.

20. However, the learned counsel appearing for the petitioner since has expressed dissatisfaction over the quantum of the compensation, no doubt the petitioner is entitled to claim for higher compensation in the manner known to law, for which it is open to the petitioner to approach the concerned authority under the provisions of the relevant legislation by following the limitation period, if any stated therein in strict sense and accordingly, agitate the issue in the manner known to law.

21. With these observation, this writ petition, in the considered opinion of this Court, can be given a quietus. Accordingly, by recording the aforesaid developments, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

tsvn

To

1. The District Collector
Kancheepuram District,
Kancheepuram.

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Tamil Nadu Slum Clearance Board,
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(Highways - Planning Division-II)
Chengalpet, Kancheepuram District.

+1cc to Mr.P.T.Ramkumar, Advocate SR.No.29773

+1cc to Government Pleader SR.No.29758

W.P.No.39505 of 2016

RK(CO)
GMY(06/08/2021)