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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2021

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THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.NO.17342 OF 2021

A.Syed Mubarak

... Petitioner

Vs.

1. The District Collector,
Tiruvarur District,
Collectorate Campus,
Tiruvarur.
2. The Land Acquisition Officer cum
District Revenue Officer,
Tiruvarur.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to refer the matter to Sub-Court, Tiruvarur, for determining the amount of compensation pertaining to the land acquired from the petitioner situate at Kalyanasundaram Nagar, Vandampalayam Village, Nannilam Taluk, Tiruvarur District, comprised in Old Survey No.87/6, re-survey No.151/6 for the purpose of forming By-pass road to Tiruvarur Town under the Tamil Nadu Highways Act, 2001 by Award dated 07.09.2020 vide Na.Ka.16981/2012/U00-1 in Award No.4 of 2020 under Section 20 of Tamil Nadu Highways Act, 2001 based on the petitioner's representation dated 02.01.2021.

For Petitioner : Mr.D.Vairamoorthy

For Respondents : Mr.K.M.D.Muhilan
Government Advocate

ORDER

This Writ Petition has been filed to direct the respondents to refer the matter to Sub-Court, Tiruvarur, for determining the amount of compensation pertaining to the land acquired from the petitioner situate at Kalyanasundaram Nagar, Vandampalayam Village, Nannilam Taluk, Tiruvarur District,



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comprised in Old Survey No.87/6, re-survey No.151/6 for the purpose of forming By-pass road to Tiruvarur Town under the Tamil Nadu Highways Act, 2001 by Award dated 07.09.2020 vide Na.Ka.16981/2012/U00-1 in Award No.4 of 2020 under Section 20 of Tamil Nadu Highways Act, 2001 based on the petitioner's representation dated 02.01.2021.

2. The case of the petitioner is that the petitioner is the owner of the house sites situate at Kalyanasundaram Nagar, Vandampalayam Village, Nannilam Taluk, Tiruvarur District, comprised in Old Survey No.87/6, Re-Survey No.151/6. The 2nd respondent had acquired the land measuring an extent of 0.04.5 Hectare out of the above said house site owned by the petitioner for the purpose of forming By-pass road to Tiruvarur Town under the Tamil Nadu Highways Act, 2001. The 2nd respondent had published a notification under Section 15(2) of the said Act on 21.12.2013 in two news papers. Thereafter, the Tamil Nadu Government had given approval for the said project under Section 15(1) of the said Act vide Government Orders dated 24.06.2015 and 01.12.2015. The 2nd respondent issued a notice dated 17.11.2017 under Section 19(5) and 19(7) of the said Act to the petitioner and other land owners directing them to furnish the details about the lands under acquisition in the meeting which was scheduled on 22.11.2017 at the office of the 2nd respondent. Accordingly, the petitioner appeared before the 2nd respondent and furnished the details in respect of his land stating that his land under acquisition is a house site and its market value is Rs.1,000/- per sq.ft.

3. It is the further case of the petitioner that the 2nd respondent passed an award on 07.09.2020 vide Na.Ka.16981/2012/U00-1 in Award No.4 of 2020 fixing the market value of the land acquired from the petitioner as Rs.2,550/- per acre without considering the documents submitted by him in the award enquiry. Though the petitioner had submitted the documents to show that the land acquired from him is house site and its market value is Rs.2,000/- per Sq.ft. The 2nd respondent failed to consider the same and fixed the value of the land as Rs.2,550/- per acre. The market value as determined by the 2nd respondent is lesser than the value prevailing in the market value at the time of acquisition of petitioner's land made in the year 2014. The Government of Tamil Nadu has also enacted the Tamil Nadu Land Acquisition Laws (Revival of Operation, Amendment and Validation) Act 2019, as specified in Section 10 stating that all the provisions of the Tamil Nadu Highways Act, 2001 except the provisions relating to determination of compensation shall stand revived on and from 26.09.2013 and further it has been stated in Section 10(3) of the said Act that the provisions relating to the determination of compensation, as specified in the first schedule, rehabilitation and resettlement as specified in the second schedule and infrastructure amenities



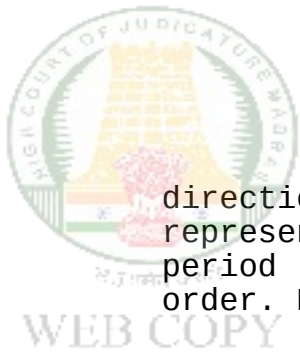
as specified in the third schedule to the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 shall apply to the land acquisition proceedings under the 2002 Act. Therefore, the petitioner is entitled for fair determination of market value for his lands acquired, as per the provisions of the RFCTLARR Act, 2013. If the 2nd respondent had determined the market value as per Section 26 of RFCTLARR Act 2013, the market value of the petitioner's land under acquisition are more than the value already fixed by the 2nd respondent. In other words, the petitioner would get more compensation if the 2nd respondent had determined the market value by adopting method as per Section 26 of RFCTLARR Act 2013.

4. It is also the case of the petitioner that the 2nd respondent ought to have determined the compensation as per Section 26 of RFCTLARR Act 2013. But the 2nd respondent had failed to follow the said method of determining compensation as per RFCTLARR Act 2013. Therefore, narrating the above, the petitioner has sent a detailed representation dated 02.01.2021 to the respondents herein requesting them to refer the matter to the Sub Court, Tiruvarur, for determining the amount of compensation under Section 20 of the Tamil Nadu Highways Act, 2001. On receipt of the aforesaid representation, the respondents herein ought to have referred the matter to the Sub Court, Tiruvarur as stipulated in Section 20 of Tamil Nadu Highways Act, 2001, which has not been done till date despite receipt of the said representation on 04.01.2021 itself. Therefore, the petitioner has filed this Writ Petition before this Court.

5. The learned counsel appearing for the petitioner would submit that the compensation fixed by the 2nd respondent is not in accordance with the market value prevailing in that area. Hence, the matter has to be referred to Sub Court, Tiruvarur, for determining fair compensation to the lands acquired from the petitioner. Further, he would submit that the petitioner has already given a representation in this regard, but the respondents have not taken any action till now.

6. The Learned Government Advocate appearing for the respondents would submit that the petitioner's representation will be considered by the respondents and appropriate orders will be passed by the respondents within a time frame may be fixed by this Court.

7. In view of the submissions made by the Learned Government Advocate, this Court is inclined to direct the respondents to consider the petitioner's representation within the time to be fixed by this Court.



8. Accordingly, this Writ Petition is disposed of with a direction to the respondents to consider the petitioner's representation dated 02.01.2021 and dispose of the same within a period of two months from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

raja

To

1. The District Collector, Tiruvarur District, Collectorate Campus,
Tiruvarur.
2. The Land Acquisition Officer cum District Revenue Officer,
Tiruvarur.

+1cc to the Government Pleader, S.R.No.45890

W.P.No.17342 of 2021

SR-II(CO)
RLP(01/11/2021)