

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2021

CORAM:

THE HON'BLE MR.JUSTICE N.SESHASAYEE

W.P.No.19849 of 2020
and W.M.P.Nos.24518, 24520 & 24522 of 2020

R.A.Manivannan

... Petitioner

Vs.

1.The District Revenue Officer,
Collectorate Complex,
Ariyalur - 621 704.

2.The Revenue Divisional officer,
Collectorate Complex,
Ariyalur - 621 704.

3.The Tahsildar,
Ariyalur Taluk,
Ariyalur.

4.The Superintendent Engineer,
Tamil Nadu Highways and Rural Development,
Near NH Bye Pass Road,
Villupuram.

5.The Divisional Engineer,
Tamil Nadu Road Sector and Projects,
Department of Highways,
Shivaji Nagar,
Tanjore.

सत्यमेव जयते

... Respondents

Writ petition filed under Section 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records of the proceeding in Na.Ka.D.No.1/5568/2016 dated 15.12.2017 issued by the first respondent and in proceeding Na.Ka.A1/7599/2017 dated 15.10.2020 issued by the third respondent and in proceeding No.Na.Ka.No.A4/2223/2017 dated 04.11.2020 issued by the second respondent quash the same to the limited extent of classification of the petitioner's lands as R.Punjai land and consequently direct the respondents herein to classify the petitioner's lands under acquisition as commercial plots and to determine the award accordingly and to ensure disbursement of the full payment of compensation and drawing

amount to the petitioner prior to proceeding any further in the acquisition proceedings.

For Petitioner : Mr.M.Ravi

For RR 1, 4 & 5 : Mr.V.Anandhamurthi
Additional Government Pleader

For RR 2 and 3 : Mr.E.Balamurugam
Special Government Pleader

O R D E R

The petitioner herein challenges a notice under Section 19 (5) of the Tamil Nadu Highways Act 2001 (for brevity "the Act") intended for holding an enquiry for passing an award.

2. Heard Mr.M.Ravi, learned counsel for the petitioner, Mr.V.Anandhamurthi, learned Additional Government Pleader appearing for the respondents 1, 4 and 5 and Mr.E.Balamurugan, learned Special Government Pleader appearing for the respondents 2 and 3.

3. The learned counsel for the petitioner submitted :
- (a) that while the property has been notified as a commercial property, the petitioner's property, with a petrol bunk on it, is stated to be a dry land. This classification has denied the just value to his property. It is hence he objects the passing of the award; and
 - (b) that before notice issued under Section 19(5) of the Act, the authorities tried to negotiate with the petitioner under Section 19(2), and during the course of that negotiation, the petitioner came to know that his property has been wrongly classified, and the authorities are more likely to value the property less than its market value.

4. Mr.V.Anandhamurthi, learned Additional Government Pleader appearing for respondents 1, 4 and 5 submits that in terms of the notice under Section 19(5) of the Act, the petitioner has not appeared for enquiry. It is in these circumstances, an award has been passed on 11.12.2020.

5. Given the change of circumstances, it is only appropriate that the petitioner challenges the award before the appropriate Court, for which, he has to go before the land acquisition authority and may have to seek reference under Section 20 of the Act. Since it has to be done within 60 days from the date of passing of the award, in view of the pendency of this writ petition, the time lost may have to be deducted

under Section 14 of the Limitation Act. Therefore, the petitioner is now required to file his representation forthwith to the Land Acquisition Authority for making a reference. Secondly, the petitioner may now apply to the Town Planning Authority for appropriate re-classification of the property.

6. A broad statement should be made here that the classification of a land in different categories by the Town planning Authority can only be a criteria for deciding the value of the property, and cannot be the sole criterion for deciding it. In a given case, the place might have developed into a commercial area, but the Town Planning Authority or any other authority for that matter, should take cognizance of such commercial activity in that area, and thereafter, classify the same.

Accordingly, this writ petition is disposed of. On the petitioner making such representation to the authority concerned, the same shall be forwarded to the Court concerned under Section 20 of the Act within two weeks from the date of receipt of a copy of this order. No costs. Connected W.M.Ps. are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

nsd

To

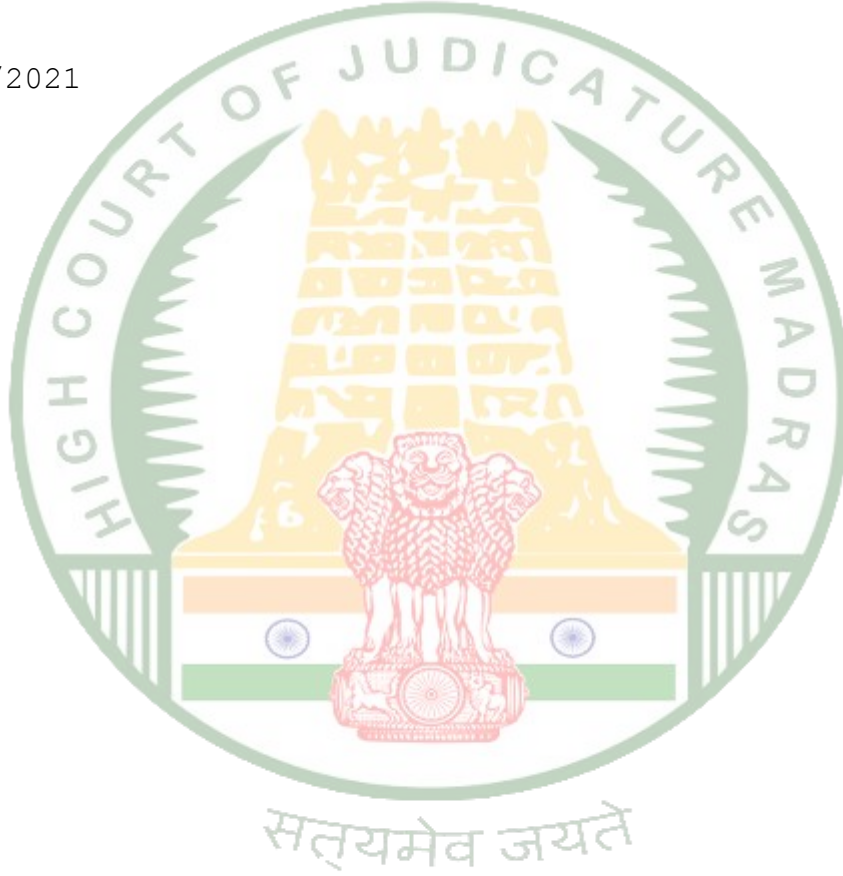
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+1cc to the Government Pleader Sr.16113, 16358

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