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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.8606 of 2017
and
W.M.P.No.9420 of 2017

1.M.Raji (Deceased)
2.Srinivasan
3.Durai
4.Gajalakshmi
5.Baggiyalakshmi
6.Visalakshmi

... Petitioners

(P2 to P6 are impleaded as per order dated 02.11.2021 by GKIJ in W.M.P.No.14770 of 2021 in W.P.No.8606 of 2017

Vs

1. The District Collector,
Kancheepuram District,
Kancheepuram.

2. The Special Tahsildar (LA),
Unit 4, Ultra Mega power project,
Cheyyur.

... Respondents

Prayer : Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondent to refer the petitioner's request for enhanced compensation to the appropriate Court, in accordance with the Section 8 of Tamil Nadu Act 10 of 1999 read with Section 18 of the Land Acquisition Act, 1894, for the lands acquired from the petitioner by the respondent authorities.

For Petitioners :	Mr.Mohan for
2 to 6	Mr.S.Mohanasundararajan
For Respondents :	Mr.Richardson Wilson,
	Government Advocate



O R D E R

This writ petition has been filed to issue a Writ of Mandamus directing the respondent to refer the petitioner's request for enhanced compensation to the appropriate Court, in accordance with the Section 8 of Tamil Nadu Act 10 of 1999 read with Section 18 of the Land Acquisition Act, 1894, for the lands acquired from the petitioner by the respondent authorities.

2. The land in Survey Nos.39/4, 39/5, 39/6, 39/7, 40/1, 40/2, 71/2, 73/3 situated at Vedal Village, Cheyyur Taluk admeasuring 17 acres owned by the petitioner. Thereafter, the said land was acquired by the respondent under the Tamil Nadu Acquisition of Land for Industrial Purpose Act, 1997 (hereinafter called as "Act") for the purpose of setting up a power project.

3. According to the petitioner, the petitioner was in receipt of a notice dated 05.09.2013 thereby called upon him to appear before the respondent authorities in order to determine the compensation for the lands which were acquired from the petitioner. Accordingly, the petitioner attended the enquiry and claimed compensation at Rs.40,000/- per cent. However, the land value was fixed at Rs.6500/- per cent and as such the petitioner submitted representation dated 20.09.2013 requesting the authority to refer the matter for fixing enhanced compensation under Section 8 of the Act read with 18 of the Land Acquisition Act, 1894. However, it was not considered, hence this writ petition.

4. The first respondent filed counter and revealed that after acquisition of the land the petitioner was called for enquiry to determine the compensation. Accordingly, he attended the enquiry and award has been passed in Award No.5 of 2014 dated 23.12.2014 to the tune of Rs.25,64,196/- for the subject land comprised in Survey Nos.39/4, 39/6 and 39/7 to an extent of 1.59.5 Hectares. Insofar as the land comprised in Survey Nos.40/1, 40/2, 73/3 to an extent of 3.24.5 Hectares in Award No.6 of 2015 dated 06.02.2015 compensation awarded to a tune of Rs.52,32,282/-.

5. While enquiry for the determination amount payable to the petitioner's land and agreement was made between the Government and the petitioner as per Section 7(2) of the Act. The Award was passed in accordance with the agreement entered between them as contemplated under Section 7(2) of the Act. Further, insofar as the land comprised in Survey Nos.39/4 (part), 39/5 to an extent of 0.55.5 Hectares situated at Vedal Village as per the agreement entered between the Government and the petitioner as contemplated under Section 7(2) of the Act



award has been passed to a tune of Rs.9,06,488/- payable to the petitioner. After passing the awards in Award Nos.5 of 2014, 6 of 2015 and 44 of 2015 the petitioner failed to produce any relevant documents and as such the award amount have been deposited in the Sub Court Maduranthagam, under the said awards the petitioner was paid the compensation at Rs.6500/- per cent. The Act permits the petitioner for enhancement of compensation only under Section 7(3) of the Act. If the land owners agreed for compensation as contemplated under Section 7(2) of the Act, shall not seek enhanced compensation by reference to the Court as contemplated under Section 8 of the Act. It is relevant to extract the provision under Sections 7(2) and 7(3) of the Act.

"7(2). Where the amount has been determined by agreement between the Government and the person to whom the amount has to be paid, it shall be paid in accordance with such agreement.

7(3). Where no such agreement can be reached, the Government shall refer the case to the Collector for determination of the amount to be paid for such acquisition as also the person or persons to whom such amount shall be paid:
Provided that no amount exceeding such amount as the Government may, by general order, specify to be paid for such acquisition shall be determined by the Collector without the previous approval of the Government officer as the Government may appoint in this behalf."

6. As per Section 8 of the Act "Any person aggrieved by the decision of Collector or the Officer to whom the case was transferred, determining the amount may, within sixty days from the date of such decision, insofar as it affects him by application to the Collector or the Officer to whom the case was transferred, require that the matter be referred by him for the determination of the Court."

7. Admittedly, the petitioner and the Government entered into an agreement and determined the value of the land and passed award. Therefore, the request of the petitioner to refer the award for enhancement of compensation under Section 8 of the Act read with Section 18 of the Land Acquisition Act, 1894 cannot be considered and the writ petition is devoid on merits and liable to be dismissed.

8. Accordingly, this writ petition is dismissed. No



order as to costs. Consequently, the connected W.M.P.No.9420 of 2017 is dismissed.

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Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

rna

To

1. The District Collector,
Kancheepuram District,
Kancheepuram.
2. The Special Tahsildar (LA),
Unit 4, Ultra Mega power project,
Cheyyur.

+1cc to M/s.Jenasenan, Advocate, S.R.No.57205

W.P.No.8606 of 2017
and
W.M.P.No.9420 of 2017

RLD(CO)
SU(20/12/2021)