



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.07.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P (MD) No.10653 of 2021

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R.Meenakshiammal

... Petitioner

Vs .

1. The Secretary to Government,
Housing and Urban Development Department,
Fort St.George, Chennai.
2. The Managing Director,
Tamilnadu Housing Board,
Nandhanam, Chennai - 35.
3. The Executive Engineer,
North Neighbourhood Scheme, Madurai.
4. The District Collector,
District Collectorate, Madurai.
5. The Special Tahsildar (Land Acquisition),
Adi Dravidar Welfare,
Madurai North and South Neighbourhood Project,
Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 4 and 5 to refer the matter to civil court for determining higher compensation either under the Land Acquisition Act, 1894, or under the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act, 2013, as per the order in SLP(Civil) No.19840/2018 dated 03.08.2018 insofar as the petitioner's property in Sy.No.38/1 measuring an extent of 44 cents, situated at Silayaneri Village, Madurai District, which had been acquired in the year 1982.

For Petitioner	: Mr.Niranjana S.Kumar
For Respondents	: Mr.R.Suresh Kumar, Government Advocate R1, R4 & R5 Mr.Mahaboob Athif for R2 & R3



ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus directing the fourth respondent to refer the matter to a competent Civil Court under Section 18 (1) of the Land Acquisition Act, 1894, based on the orders passed by the Hon'ble Supreme Court in S.L.P.Civil.No.19840 / 2018, dated 03.08.2018.

2. Heard Mr.Niranjana S.Kumar, learned counsel appearing for the petitioner, Mr.R.Suresh Kumar, learned Government Advocate appearing for the respondents 1, 4 and 5 and Mr.Mohammed Athiff, learned counsel appearing for the respondents 2 and 3.

3. When the matter was taken up for hearing on 28.06.2021, this Court passed the following order:-

"Mr.R.Suresh Kumar, learned Government Advocate takes notice for the respondents 1, 4 and 5. Mr.Mahaboob Athiff, learned Counsel takes notice for the respondents 2 and 3.

2. The petitioner has approached this Court seeking for a direction to the respondents to refer the matter under Section 18 of the Land Acquisition Act, 1894, based on the orders passed by the Hon'ble Supreme Court, dated 03.08.2018.

3. It is seen from the typed set of papers filed along with the Writ Petition that there is only one representation that was given by the petitioner on 15.06.2021. This representation has been given after nearly three years. Section 18 of the Land Acquisition Act, provides that the Collector can refer the dispute before the concerned Court for enhancement of compensation, only, when the same is made within six weeks or six months as provided under Clause a and b to the proviso to Sub Section 2 to Sec 18 of the Act. This Court, therefore, brought to the notice of the learned counsel appearing for the petitioner that no representation was made to the Collector within a period of six months from the date of passing of the order by the Hon'ble Supreme Court.

4. The learned counsel appearing for the petitioner sought for some time to take instructions in this regard, in order to ascertain, if any representation was made by the petitioner to the Collector within a period of six months.



5. Registry is directed to post this case under the caption "**Immediately after Admission**" on **06.07.2021.**"

4. When the matter was taken up for hearing today, the learned counsel appearing for the petitioner brought to the notice of this Court, the earlier order passed in W.P.(MD).No.20045 of 2013, dated 30.09.2015. This Writ Petition was filed by the husband of the petitioner. In this Writ Petition, the focus was more on the reconveyance of the property even though incidentally the issue of enhancement of compensation was also urged before this Court. This Court while disposing of the Writ Petition, had recorded at Paragraph No.3.4 of the order as follows:-

"3.4.Meanwhile, the Land Acquisition Tribunal enhanced the compensation to a sum of Rs.1,500/- per cent with 30% solatium amount and interest was also fixed at the rate of 12% per annum on the market value of the land from the date of the notification under Section 4(1) of the Land Acquisition Act, 1894, (in short "the Act") till the date of award. Therefore, the petitioner also made a representation to the authorities concerned seeking redetermination of the compensation under Section 28-A of the Act, however, no action was taken sofar."

5. In the course of discussion, this Court has also recorded at Paragraph No.12 of the order as follows:-

"12.This Court is also not in a position to understand as to why the reference in the case on hand was not made to far and the answer is silent. Of course, it does not arise for consideration in the present writ petition and therefore, this has not gone into the said aspect."

6. Ultimately, while dismissing the Writ Petition, this Court found that the husband of the petitioner is not entitled for reconveyance of the property and liberty was given to work out the other remedies for enhancement of compensation.

7. This matter ultimately reached the Hon'ble Supreme Court and the Hon'ble Supreme Court while disposing of the Special Leave Petition by order dated 03.08.2018, passed the following order:-

"However, the petitioner shall be at liberty to approach the Collector/ L.A.O. or to



make reference to Civil Court under Section 18 of the Land Acquisition Act for re-determination of compensation payable to the petitioner in accordance with the provisions of the Act.

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If any such application is made, the same shall be considered and disposed of in accordance with law."

8. It is pursuant to the above directions issued by the Hon'ble Supreme Court, the petitioner made a representation on 15.06.2021 to the fourth and fifth respondents to refer the matter to the competent Civil Court, since the petitioner was seeking for enhancement of compensation. Since the same was not acted upon, the present Writ Petition has been filed before this Court.

9. In the considered view of this Court, even though an earlier order was passed on 28.06.2021 directing the learned counsel for the petitioner to produce some materials to the effect that the request for reference was made in time, the earlier order passed by this Court itself gives an answer for this query and therefore, there is no requirement to search for any other material.

10. In view of the above discussion, there shall be a direction to the fourth respondent to act upon the representation made by the petitioner on 15.06.2021 and refer the matter before the competent Civil Court within a period of four weeks from the date of receipt of a copy of this order under Section 18 (1) of the Land Acquisition Act, 1894. The competent Civil Court shall afford opportunity to the petitioner and the Tamil Nadu Housing Board and final orders shall be passed as expeditiously as possible.

11. This Writ Petition stands disposed of with the above directions. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To:

1. The Secretary to Government,
Housing and Urban Development Department,
Fort St.George, Chennai.
2. The District Collector,
District Collectorate, Madurai.
3. The Special Tahsildar (Land Acquisition),
Adi Dravidar Welfare,
Madurai North and South Neighbourhood Project,
Madurai.

+1 CC to M/s.NIRANJAN S.KUMAR, Advocate (SR-23573[F] dated 22/07/2021)

+1 CC to M/s. SPL GP (SR-23693[F] dated 23/07/2021)

**W.P (MD) No.10653 of 2021
22.07.2021**

RC (30.07.2021) 5P-6C