



W.P.No.1424 of 2015

M. DHANDAPANI, J.

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This petition has been listed today under the caption “For being mentioned” at the instance of the learned counsel for the petitioner.

2. It is submitted by the learned counsel for the petitioner that though the Land Acquisition Act contemplates payment of interest at 9 %. However, in para 9 of the order dated 23.02.2022, this Court had awarded only 7.5% of interest, which is in consonance with the Act. Therefore, necessary corrections may be made to the said portion of the order dated 23.02.2022 as also the relevant provision of the Land Acquisition Act finds it that the Act contemplates payment of interest at 9% per annum. In such view of the matter, 7.5 % appearing in para 9 of the order dated 23.02.2022 shall stand modified as per the Act.

3. In view of the above, Registry is directed to carry out necessary corrections and issue fresh order copy to the parties.

21.04.2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2022

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.1424 of 2015
and
W.P.No.28673 of 2017

A. Loganathan

.... Petitioner in
both W.P.s

Versus

1. Special Deputy Collector (L.A.)
Tamil Nadu Urban Development Project – II
Poonamallee,
Chennai – 600 056.

....1st respondent in
W.P. No.1424 of 2015

and
2nd respondent in
W.P. No.28673 of 2017

2.Divisional Engineer (H),
Chennai Metropolitan Development Project,
Division – I, Guindy,
Chennai – 600 032.

.... 2nd respondent in
W.P. No.1424 of 2015

and

4th respondent in
W.P. No.28673 of 2017

1. Secretary to Government,
Highways and Minor Ports Department,
Secretariat,
St. George Fort,
Chennai – 600 009.

<https://www.mhc.tn.gov.in/judis>

3. S.Selvarasu

...



Respondents

in

W.P. No.28673 of 2017

5. S.Balakrishnan

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W.P. No.1424 of 2015:

Writ Petition filed under Article 226 of the

Constitution of India to issue Writ of Mandamus to direct the respondents to pay the Land Acquisition Compensation to the petitioner to the tune of Rs.15,78,363/- (Fifteen Lakhs Seventy Eight Thousand Three Hundred and Sixty Three only) within a reasonable time as per Land Acquisition Award No.1 of 2013 dated 05.04.2013 (Award S. No.2) passed by the first respondent under the Tamil Nadu Highways Act, 2001.

W.P. No.28673 of 2017:

Writ Petition filed under Article 226 of the

Constitution of India to issue Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in Na.Ka. No.477/2007 dated 04.03.2015 and quash the same as illegal, arbitrary and non est in law and consequently direct the respondents to pay the land acquisition compensation of Rs.1578363/- to the petitioner as fixed and determined in Land Acquisition Award No.1 of 2013 dated 05.04.2013 in Award Serial No.2 issued by the 2nd respondent with interest at the rate of 18% per annum from the date of passing of award till the date of realisation.

For Petitioner in both W.P.s

: Mr.Arun Anbumani
for Mr.G. Dinesh Kumar

For RR1, 2 and 4 in

W.P. No.28673 of 2017

and

For respondents in

W.P. No.1424 of 2015

: Ms.D. Tamilselvi
Addl. Govt. Pleader



COMMON ORDER

Since the issue involved in both these writ petitions, is one and the same, these writ petitions are disposed of by this common order.

Brief facts leading to filing of these writ petitions are as follows :

2. It is the case of the petitioner that he is the absolute owner of the lands comprised in Old S. No.87/5 & 88/5, 88/5A, 87/5 part, T.S. No.31/2, 32/2, Plot No.7B, 87A and 6C situated in Thalakkanancheri Village, Alandur Taluk, Kanchipuram District. It is averred that for expansion of four lane road in Mount – Madipakkam Highways, a portion of the lands were acquired by the Government viz., T.S. No.31, Old S. No.87/5 measuring an extent of 87 sq. metres, T.S. No.32, Old S. No.87/5 part, 88/5A part subdivided as 32/2 to an extent of 85 sq. metres. After due notification, his lands as well as the lands of one Saroja were acquired, which totally comes to an extent of 136 sq. metres. It is stated that out of 136 sq. metres, 85 sq. metres of land pertaining to him and the remaining 51 sq. metres belong to the said Saroja, and extent to that effect was also reflected in notification as Sl. No.1 and Sl. No.2 respectively. Subsequently, on the basis of recommendation, compensation was fixed after satisfying the title and possession of the property. Thereafter G.O. Ms.No.239, Highways and Minor Ports Department dated 15.07.2010 was issued and the 2nd respondent passed an Award No.1 of 2013 dated 05.04.2013 in respect of his lands acquired to an extent of 87 sq. metre



and thus fixed, the rate as per the value prevailing in the market as Rs.10,764/- per sq. mtr., which works out to Rs.27,54,332/-, thus this portion of land acquisition comes to an end.

3. Likewise, another joint Award has been passed, in which lands have been owned by himself and Saroja (Award Serial No.2) were acquired totalling to an extent of 136 sq. metre, which works out to Rs.15,78,3636/- to himself and Rs.13,75,557/- to Saroja respectively. While so, it is his grievance that the 2nd respondent without disbursing the compensation amount due to him for the lands acquired has alone made payment to Saroja. Against non-payment of compensation, he filed W.P. No.1424 of 2015 seeking a direction to the respondents therein to pay the compensation for his lands acquired by them. Pending Writ petition, the 2nd respondent passed the impugned order dated 04.03.2015 i.e., Award Serial No.2, reviewing suo motu in respect of his lands acquired in S. No.32/2 and his name has been deleted from the Award, without any notice and further added the name of one Balakrishnan, who is in no way connected with the said lands. Challenging the said impugned order, W.P. No. 28673 of 2017 has been filed.

4. Mr.Arun Anbumani, learned counsel for the petitioner in both writ petitions vehemently argued that due to the malafide intention of the 2nd respondent, the impugned proceedings have been passed, without any



notice to the petitioner. He drew the attention of this Court to the counter affidavit filed by the respondents to the initial proceedings in W.P. No.1424 of 2015, wherein, the respondents have concocted a story by including the name of one Balakrishnan, who is not in the scene when the subject Award was passed in favour of the petitioner and Saroja. Thus, it is his submission that the action on the part of the respondents, without providing an opportunity to the petitioner, is a clear violation of principles of natural justice. He further submitted that it is categorically admitted in the counter affidavit of the respondents that the petitioner is entitled for compensation towards 48 sq. meter, though the petitioner claims compensation for higher quantum of land. Hence, he submitted that atleast to see the colour of the coin, the petitioner is now restricting his claim for compensation to an extent of 48 sq. metres in Plot No.6C (T.S. No.32/2) along with interest. Further, he seeks liberty of this Court to agitate the issue regarding acquisition of petitioner's lands with respect to Plot No.7B, separately in accordance with law.

5. Per contra, Ms.D. Tamilselvi, learned Additional Government Pleader appearing for the respondents reiterating the counter affidavit submitted that only after conducting enquiry, proposals for notification was sent for approval and the same was published in Gazette also. She

<https://www.mhc.tn.gov.in/> further submitted that the land owners have not attended the enquiry, hence, the attempt ended in an unfruitful action on the part of the



respondents. She further submitted that the respondents conducted field inspection and as per the available records, the petitioners land at Survey No.32/2 (part) comprises only of 48 sq. mt. and not 85 sq. mtrs. Thus, the Award No.1 of 2013, dated 05.04.2013 (Award Serial No.2) has been passed by the respondents in accordance with law. Further, she submitted that Survey No.32/2 (part) comprised in 3 plots viz., 6A, 6B and 6C of which the petitioner's portion is at 6C; 6A belongs to one Balakrishnan and 6B belongs to one Saroja. Finally, she submitted that the petitioner is entitled to get compensation only for an extent of 48 sq. metres alone at the rate already decided by the respondents, on production of documentary evidence and this Court may issue direction to the respondents to pay the said amount on production of necessary documents by the petitioner.

6. This Court bestowed its best attention to the contentions advanced by the learned counsel on either side and perused the materials available on record.

7. A perusal of the record reveals that the lands pertaining to the petitioner and other owners have been acquired for expansion of Mount Madipakkam Road from two lane to four lane. Though the respondents claim that there is no violation of principles of natural justice, yet there is

<https://www.mhc.tn.gov.in/judis> no material available on record to show that notice was issued to the petitioner and the petitioner was heard before the order was passed. Such



being the case, the impugned order suffers the vice of illegality and cannot be sustained.

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8. Be that as it may. Though the petitioner claims a far larger extent, but in view of the stand of the respondents, the petitioner has, for the present, has restricted his claim to the portion admitted by the respondents, which is to an extent of 48 sq. metres. Further, it has to be pointed out that contradictory stand has been taken by the respondents at different stage of the proceedings, which has clearly confused the award and the award of compensation. The stand of the respondents not being clear which has resulted in the long drawn battle for payment of compensation, this Court is of the view that the petitioner is entitled for receipt of interest on account of the slackness on the part of the respondents. However, in view of the fact that a fair length of time has passed without the petitioner relishing the fruits from the compensation that would be receivable for the lands which have been acquired, to give quietus to the issue, this Court is inclined to issue direction to the official respondents to pay the compensation for the undisputed portion of petitioner's land alone i.e., 48 sq. mtrs. and granting liberty to the petitioner to work out his remedy in a manner known to law with regard to the disputed extent of land.

9. For the reasons aforesaid and in view of the conceding stand taken by the learned counsel on either side, this Court, without going into the merits of the matter is inclined to issue a direction to the petitioner to



submit necessary documents to the official respondents, with regard to the extent of 48 sq. mtrs., which has been admitted by the official respondents to be the portion in favour of the petitioner, within a period of two weeks from the date of receipt of a copy of this order. On such receipt, the official respondents are directed to pay the compensation for the undisputed portion of petitioner's land, to the extent of 48 sq. mtrs., within a period of twelve weeks thereafter. Further, the official respondents are directed to pay interest at 7.5% per annum to the petitioner from the date of taking possession till the date of disbursement of the award amount. Further, the petitioner is at liberty to agitate the issue with regard to compensation for the acquisition of Plot No.7B, separately in the manner known to law.

10. With the aforesaid directions, these Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions, if any are closed.

23.02.2022

Internet: Yes/No
Speaking Order/Non-Speaking Order
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To

1. Special Deputy Collector (L.A.)
Tamil Nadu Urban Development Project – II
Poonamallee,
Chennai – 600 056.

2. Divisional Engineer (H),
Chennai Metropolitan Development Project,
Division – I, Guindy,
Chennai – 600 032.

3. Secretary to Government,
Highways and Minor Ports Department,
Secretariat,
St. George Fort,
Chennai – 600 009.



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M.DHANDAPANI, J.

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W.P. No.1424 of 2015
and
W.P.No.28673 of 2017

23.02.2022