



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2022

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. Nos.14120 to 14125 of 2010
and
12495 of 2010

1.N. Vijaya	 Petitioner in WP.No.14120 of 2010
1.R.Usha Rani	 Petitioner in WP.No.14121 of 2010
1.M.Vijayaragavan	 Petitioner in WP.No.14122 of 2010
1.P.Thiyagarajan	 Petitioner in WP.No.14123 of 2010
1.Packialakshmi	 Petitioner in WP.No.14124 of 2010
1.R.Usha Rani	 Petitioner in WP.No.14125 of 2010
1.Manickamma D.S	 Petitioner in WP.No.12495 of 2010

Versus

1. State of Tamil Nadu
Rep. By its Secretary to Government,
Department of Municipal Administration
& Water Supply,
Fort St. George,
Chennai - 600 009.

2. The District Collector,
Chennai District,
Singaravelan Maligai,
I Lane Beach,
Chennai - 600 003.

3. The Special Tahsildar,
Land Acquisition,
Fort Tondiarpet Taluk,
Chennai - 600 003.

... Respondents in all WPs

Common Prayer : Writ Petition filed under Article 226 of the
Constitution of India to issue Writ of Certiorari, calling for



the records of the 3rd respondent in his proceedings Rc. No.A10/17481 of 2007 in Award 2 of 2009, dated 24.12.2009 and quash the same.

For Petitioner : Mr.K.A. Dhanasekaran
For Respondents : Mr.P. Sathish, AGP

COMMON ORDER

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

2. It is the case of the petitioners that they are the owners of the respective properties mentioned in the affidavit filed in support of this writ petition. The 3rd respondent issued notices under Section 9 (1) and 10 of Land Acquisition Act and prior to that 4(1) Notification as well as Declaration under Section 6 were published in the Gazette. While so, respondents passed the draft Award on 24.12.2009, fixing the compensation amount at Rs.136.42/- per square feet, whereas the petitioners submitted their request seeking higher compensation. That being so, it is averred that Notification and Declaration were passed by invoking the emergency provision under Section 17(2) of the Act which is not a valid one. It is averred that notice under Section 5A plays vital role for invoking emergency provision and it can be done only in exceptional cases, whereas the respondent issued notice under Section 9(1) and 10 of the Act, which does not come under the purview of Section 17 of the Act. It is their grievance that though they have not challenged the said proceedings, Land Acquisition authorities passed the draft Award, without taking into account the order passed by this Court on 17.12.2009 in W.P. Nos.22467 and 13930 of 2008, quashing G.O. No.176, dated 14.12.2007 with regard to Declaration under Section 6 of the Act. Challenging the respective impugned Awards, these writ petitions are filed.

3. The learned counsel for the petitioners submitted that the respondents without complying with the provisions under Section 17(3) (A) of the Land Acquisition Act, have passed the impugned Award that too without providing an opportunity to the petitioners, they invoked the emergency clause by dispensing with enquiry under Section 5 (A) of the Act. He also submitted that now the respondents have taken possession of the subject properties and some amount of the Award has been paid to the petitioners. He further submitted that these writ petitions have been filed challenging the respective Awards passed by the



3rd respondent in the year 2009. In view of certain portion of compensation having been received, learned counsel for the petitioner restricted his prayer to the extent of issuance of appropriate direction to the respondents to settle the remaining compensation amount due to the petitioners. He also sought for liberty to the petitioners to refer the matter under Section 18 of the Act for enhancement of compensation.

4. Per contra, learned Additional Government Pleader fairly conceded with the submissions made by the learned counsel for the petitioners and submitted that the properties in dispute were acquired under the Land Acquisition Act by following due procedures contemplated under the said Act and 80% of the compensation amount has been paid. However, he has no objection for issuance of direction to the respondents to pay the remaining amount of the compensation / Award amount, if not paid already.

5. This Court has perused and examined the materials placed on record as well as heard the submissions made by the learned counsel on either side.

6. Admittedly, the facts are not in dispute. This Court, in a catena of decisions has held that the Award cannot be challenged without challenging the 4(1) Notification and Declaration under Section 6 of the Land Acquisition Act. However, considering the limited request made by the learned counsel for the petitioner, this Court disposes of these writ petitions by issuing following directions :

the respondents are directed to release the award amount, less the amount already paid to the petitioners within a period of four weeks from the date of receipt of a copy of this order. Further on the request of the petitioners, the respondents are directed to refer the matter for adjudication under Section 18 of the Act before the Court of competent jurisdiction for enhancement of compensation, if not referred already.

7. With the aforesaid directions, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions, if any are closed.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

vsi2



To

1. The Secretary to Government,
State of Tamil Nadu
Department of Municipal Administration
& Water Supply,
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Chennai - 600 009.

2. The District Collector,
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+1cc to the Government Pleader SR.No.18818

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VBM(CO)
GN(05/05/2022)