



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2022

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.29075 of 2012

S.Thangamani

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Petitioner

Versus

1. Secretary to the Government
Department of Industries,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.

2. The Special Tahsildar,
(Land Acquisition)
Jayamkondam Lignite and Thermal
Power Scheme,
Tamil Nadu Industrial Development Corporation,
Jayamkondam - 621 802.

3. The Chairman and
Managing Director,
Tamil Nadu Industrial Development Corporation,
19-A, Lakshmipathi Rukmani Salai,
Chennai - 600 008.

4. Krishnamurthy
5. Maharajan
6. Chinnathambi
7. Rajendran

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Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus, calling for the records relating to the proceedings in Rc.E/57/2007 dated 16.07.2010 on the file of the second respondent herein and to quash the same and to direct the second respondent to refer the dispute relating to the apportionment of the compensation amount covered under Award No.7/2001 dated 11.05.2001, to the competent Civil Court under Sections 30 to 31 of the Land Acquisition Act, after depositing the entire



compensation amount together with interest at the rate of 15% per annum from 21.01.1999 being the date of Section 4(1) Notification till the date of deposit, after communicating the copy of the Award No.7/2001 dated 11.05.2001 to the petitioner.

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For petitioner : Mr.S. Subbiah,
Senior Counsel for P. Raja

For respondents : Mr.G. Krishnaraja,
Addl. Govt. Pleader
for R1 & R2

M/s.S. Kingston Jerald
for R4 to R7

ORDER

This writ petition has been filed to call for the records relating to the proceedings in Rc.,/57/2007 dated 16.07.2010 on the file of the second respondent herein, to quash the same and direct the second respondent to refer the dispute relating to the apportionment of the compensation amount covered under Award No.7/2001 dated 11.05.2001, to the competent Civil Court under Sections 30 to 31 of the Land Acquisition Act, after depositing the entire compensation amount together with interest at the rate of 15% per annum from 21.01.1999 being the date of Section 4(1) Notification till the date of deposit, after communicating the copy of the Award No.7/2001 dated 11.05.2001 to the petitioner.

2. The case of the petitioner is that originally the land in Survey No.59/2 and 3 to an extent of 0.74.5 Ares in Kommedu Village, Hamlet of Keezhakudiyirruppu in Udayarpalayam Taluk, Ariyalur District, belongs to his paternal uncle Ponnusamy. His paternal uncle died in the year 1997 as a Bachelor and that being so, he and the private respondents have claimed themselves as the legal heirs of the deceased. While so, the property belongs to the deceased was acquired by the first respondent and an Award No.7 of 2001, dated 11.05.2001 was passed determining the compensation amount as Rs.2,47,341/- however, the petitioner or the other legal heirs has not been communicated about the passing of the award or depositing the amount. The non communication of the Award resulted in various complications and disputes between him and the fourth respondent. The petitioner also instituted a suit in O.S. No.75 of 2009 on the file of the District Munsif, Jayamkondam for a decree of mandatory injunction to direct the second respondent to disburse the compensation for the said acquisition in respect of his 1/3rd



share but the suit was dismissed on 25.01.2011 with a direction to approach the competent court i.e. Special Court, Jayamkondam. Subsequently, the second respondent sent a reply letter/proceedings to him on 16.07.2010 stating that the compensation amount has not been deposited, owing to disputes amongst the claimants and due to non submission of legal heir certificate of the deceased as well as taking into account the pendency of the aforesaid suit. Aggrieved by the said impugned proceedings, dated 16.07.2010, the petitioner has come up with this writ petition to quash the said proceedings inter alia seeking for issuance of a direction to refer the dispute with regard to apportionment of the the compensation amount along with interest through appropriate forum.

3. Mr.S. Subbiah, learned Senior Counsel appearing for the petitioner drawn the attention of this Court to Sections 11 and 12 of the Land Acquisition Act, where the competent authority has to give due notice, while awarding compensation amount to the interested persons or to his representatives but the same has not been followed in the instant case. He further submitted that in the absence of any communication, with reference to the passing of the award, the rights of the petitioner is forfeited and hence, the petitioner could not seek for referring the matter under Section 18 of the Act. He also submits that the second respondent has also not followed the procedures contemplated under Sections 30 and 31 of the Act. In the whole, the impugned proceedings has been passed, illegally without following the mandatory procedures contemplated under law. Accordingly, he prays for allowing of this writ petition.

4. Mr.G. Krishnaraja, learned Additional Government Pleader appearing for respondents 1 and 2, reiterating the averments in the counter affidavit, submitted that without furnishing any documentary evidence in support of their claim, the petitioner and other private respondents have claimed right over the disputed property. Further, he stated that procedure relating to issuing notices under Section 9(1) and 10 were duly complied with, by the respondents whereas the interested persons of the land in dispute have refused to receive the same. It is his submission that only on receipt of the Award, the petitioner filed O.S. No.75 of 2009 before the District Munsif Court, Jayamkondam. He also submitted that after dismissal of the suit in O.S. No.75 of 2009 for lack of jurisdiction, an apportionment suit is pending before the Sub Court, Ariyalur in O.S. No.105 of 2002 for the very same land, filed by one Anjalai Ammal next friend for Minor Bhuvaneswari against the respondents 4 to 6. The said facts were not disclosed by the petitioner and when the



matter is seized of by the competent Court at Ariyalur, the second respondent is not obligated to refer the dispute of the petitioner under Section 30 and 31 of the Act. Finally, he submitted that the compensation amount awarded vide Award No.7 of 2001 has been lying in the account of Revenue Deposit, and this Court may issue appropriate direction to give quietus to this issue.

5. Heard the learned counsel on either side and perused the materials available on record.

6. The materials available on record reveal that the subject lands pertain to one Ponnusamy, who died as a Bachelor. The deceased has no Class- I Legal Heirs and the petitioner and others claim themselves as Class - II Legal Heirs and they claim that they are entitled to receive the compensation in respect of the lands acquired by the respondents. In view of the dispute that exists with respect to the status of the legal heirs of the deceased, the acquisitioning authority has deposited the compensation amount. The short dispute which is put forth before this Court is only with reference to the apportionment of compensation among the legal heirs of Ponnusamy.

7. It is not in dispute that the lands were acquired by following the procedures contemplated under the Act and the compensation has been kept in Revenue deposit, as submitted by the learned Additional Government Pleader appearing for the 1st and 2nd respondents, however, in view of the limited relief with regard to apportionment of the compensation amount between the legal heirs of the deceased Ponnusamy, this Court is inclined to issue the following direction :-

(i) The petitioner is directed to submit the details of Class II Legal Heirs of the deceased Ponnusamy along with their communication address to the respondents 1 and 2 along with a copy of this order within a period of four weeks from the date of receipt of a copy of this order.

(ii) On receipt of the award proceedings, it is open to the petitioner as well as other legal heirs to file their representations, if any before the 2nd respondent.

(iii) On the submission of the details aforesaid, respondents 1 and 2 are directed to communicate a copy of the award proceedings by



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complying with Sections 12 (2) of the Land Acquisition Act, 1894 to the petitioner as also the other legal heirs of the deceased Ponnusamy within a period of 4 weeks thereafter and if the petitioner and other legal heirs are not satisfied with the compensation offered by respondents 1 and 2, the petitioner as also the other legal heirs are granted liberty to make application for referring the matter for enhancement of compensation under Section 18 of the Land Acquisition Act, 1894 within two weeks thereafter. Upon receipt of the request, the 2nd respondent shall refer the matter either under Section 18 or under Section 30 of the Land Acquisition Act to the competent jurisdiction Court for determination and apportionment of the compensation.

8. This writ petition is disposed of with the aforesaid directions. Consequently, connected miscellaneous petition, if any is closed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

vsi2

To

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2. The Special Tahsildar,
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Jayamkondam Lignite and Thermal
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3. The Chairman and
Managing Director,
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Chennai - 600 008.

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+1cc to Mr.P.Raja, Advocate SR.No.12067
+1cc to the Government Pleader, SR.No.12799

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SV I (CO)
CB(06/04/2022)