



W.P.No.4728 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2022

CORAM :
THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Writ Petition No.4728 of 2015
and M.P.Nos. 1 & 2 of 2015

S.Velmurugan

... Petitioner

Vs.

1.Union of India,
Union Territory of Puducherry,
Rep. by the Additional Secretary to Government,
Revenue & Disaster Management Department,
Government of Puducherry,
Puducherry.

2.The Collector,
Collectorate, Puducherry.

3.The Sub/Deputy Collector (Revenue) South
- cum – Land Acquisition Officer,
Office of the Deputy Collector (Revenue)(South),
Villianur, Puducherry – 605 110.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorari calling for the records relating to the Notification U/s.4(1) of the Land Acquisition Act, 1894 bearing G.O.Ms.No.45 dated 23.05.2007 & the Declaration U/s.6 of the Land Acquisition Act 1894 bearing G.O.Ms.No.25 dated 14.07.2008 on the file of



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the 1st respondent and the Award No.1/2010 dated 05.02.2010 & the 2 notices bearing No.650/DCRS/LA/N/06 dated 09.01.2015 on the file of the 3rd respondent and to quash the same in so far as the same is relating to the land bearing R.S.No.49/2pt., situated at Vathanur Revenue Village, Villianur, Puducherry and measuring 1.00.00 HAC.

For Petitioner : Mr.K.P.Jotheeswaran

For Respondents : Mr.J.Kumaran,
Additional Government Pleader
(Puducherry)

ORDER

The petitioner has filed this petition seeking for issuance of Writ of Certiorari calling for the records relating to the Notification U/s. 4(1) of the Land Acquisition Act, 1894 bearing G.O.Ms.No.45 dated 23.05.2007 & the Declaration U/s. 6 of the Land Acquisition Act 1894 bearing G.O.Ms.No.25 dated 14.07.2008 on the file of the 1st respondent and the Award No.1/2010 dated 05.02.2010 & the 2 notices bearing No.650/DCRS/LA/N/06 dated 09.01.2015 on the file of the 3rd respondent and to quash the same in so far as the same is relating to the land bearing R.S.No.49/2pt., situated at Vathanur Revenue Village, Villianur, Puducherry and measuring 1.00.00 HAC.



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2. The case of the petitioner is that the petitioner is the owner of the property in R.S.No.49/2pt, situated at Vathanur Revenue Village, Villianur, Puducherry, measuring an extent of 1.00.00 HAC (1 kani 86 kuzhies & 14 veesams). The respondents have proposed to acquire the aforesaid land for the purpose of issuing free house site patta to the landless labourers. Subsequent to the proposal, the respondents have issued a notification under section 4(1) of the Land Acquisition Act, 1894 (for brevity “Act”) bearing G.O.Ms.No.45 dated 23.05.2007. Thereafter, a declaration was published under section 6 of the Act, bearing G.O.Ms.No.25 dated 14.07.2008. However, without issuing notice under Section 12(2) of the Act, an award No.1 of 2010 dated 05.02.2010 was passed. This being the case, on 20.01.2015, the third respondent has served a notice dated 09.10.2015 under section 12(2) of the Act, stating that a sum of Rs.8,01,397/- was determined towards compensation for acquiring the petitioner’s land and the said amount is being deposited under section 31(2) of the Act. Challenging these notifications, the petitioner has filed this writ petition with the aforesaid prayer.



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3. Learned counsel for the petitioner would submit that the first respondent claimed that the award No.1 of 2010 was passed on 05.02.2010, however, the original award was not communicated to the petitioner immediately after passing an award dated 05.02.2010. Hence, this writ petition is filed solely on the ground that the award was not passed within a period of two years as mandated under section 11(A) of the Act from the date of declaration i.e., 14.07.2008. Accordingly, he prayed for allowing this writ petition.

4. Learned Additional Government Pleader appearing for the respondents would submit that though the 12(2) notice would indicate that the award No.1 of 2010 was passed on 05.02.2010, draft award was only approved on 29.01.2010. Hence, he prayed for appropriate orders.

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

6. The fact in the present case is not in dispute. Admittedly, the petitioner's land is acquired under the land acquisition act and 4(1)



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notification was issued on 23.05.2007 and sixth declaration was published on 14.07.2008 and as per section 11(A) of the Act, the award has to be passed within a period of two years from the date of sixth declaration, after communicating the award to the petitioner, however, in the present case on hand, the award was communicated to the petitioner under section 12(2) of the Act only on 09.01.2015. Hence, on this sole ground, this writ petition has been filed.

7. In order to ascertain the aforesaid facts, this Court called for the records and on perusal of the records would reveal that only draft award was passed on 29.01.2010 and there was no original award available in the records. Hence, the entire acquisition proceeding is lapsed in terms of section 11(A) of the Act.

8. Accordingly, this writ petition is allowed. However, liberty is granted to the respondents to acquire the land in the manner known to law, if the land is available. No costs. Consequently, connected miscellaneous petitions are closed.

26.10.2022

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Index : Yes/No

Speaking Order : Yes/No

M.DHANDAPANI,J.

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To:

- 1.The Additional Secretary to Government,
Union Territory of Puducherry,
Revenue & Disaster Management Department,
Government of Puducherry,
Puducherry.
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