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W.P.No.30063 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.30063 of 2016 and
W.M.P.Nos.26051 and 38463 of 2016

C.Rosiah

... Petitioner

Vs.

1. The Special Tahsildar,
(Land Acquisition Officer,
Unit IV, Outer Ring Road Scheme (ORR)
Chennai Metropolitan Development Authority
Koyembedu,
Chennai – 600 092.
2. Tamilnadu Road Development Corporation Ltd.,
Represented by its chief General Manager,
South Kesava Perumalpuram,
Greenways Road,
Annamalaipuram,
Chennai – 600 028.
3. The District Collector,
Thiruvallur District,
Collectorate,
Thiruvallur.
4. Chennai Metropolitan Development,
Authority Represented by its
Member Secretary,
Thalamuthu Natarajan Building
Gandhi Irwin Road,
Egmore,
Chennai – 600 008.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the record from the first respondent relating to the impugned order in Na.Ka.No.15/2014 Alagu 6 thereby directing the first respondent to take necessary steps to fix and pay the compensation for the lands acquired from the petitioner as per the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013.

For Petitioner : Mr.Ravikumar Paul
for V.Ajoy Khosb

For R1 to R3 : Mr.U.Bharanidharan
Additional Government Pleader

For R4 : Ms.P.Veena Suresh

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus to quash the impugned order passed by the first respondent in Na.Ka.No.15/2014 Alagu 6 and to consequently direct the first respondent to take necessary steps to fix and pay the compensation for the lands acquired from the petitioner as per the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013.



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2. The case of the petitioner is that his lands were acquired by the Government of Tamilnadu through the first respondent herein for the purpose of formation of Outer Ring Road Scheme. Initially, the petitioner sent several representations before the first respondent seeking fixation of fair compensation for the acquired lands as per the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013 (Central Act No.30/2013) (hereinafter referred to as 'Act, 2013'), however, the same was not considered. Hence the petitioner filed a Writ Petition before this Court in W.P.No.22301 of 2014 seeking a direction to the first respondent to fix fair compensation by initiating fresh proceedings as per Act, 2013 by considering the petitioner's representations dated 13.01.2014 and 17.05.2014. This Court vide order dated 07.12.2015, directed the first respondent to consider the petitioner's representation within a period of eight weeks from the date of receipt of a copy of this order, pursuant to which the first respondent vide proceedings dated 19.02.2016 passed the impugned order stating that the petitioner is not entitled for enhancement of compensation as per the Act, 2013, since the awards were passed on 27.12.2013 and 30.12.2013, prior to the commencement of Act, 2013.

Challenging the same the present Writ Petition has been filed seeking the



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aforesaid relief.

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3. Learned senior counsel for the petitioner submits that the first respondent vide order dated 19.02.2016, rejected the petitioner's claim for determination of fair compensation as per Act, 2013 on the ground that the awards in this regard were passed as early as 27.12.2013 and 30.12.2013, as the provisions of Act, 2013 came into force only on 01.01.2014. Though it is alleged that the awards were passed on 27.12.2013 and 30.12.2013, as the same were not communicated to the petitioner as well as the third respondent / the District Collector concerned, before the commencement of Act, 2013 i.e., on 01.01.2014, the first respondent is duty bound to fix the compensation as per the provisions of Act, 2013.

4. Learned Additional Government Pleader appearing for the first respondent submitted that admittedly the awards were passed on 27.12.2013 and 30.12.2013, notices u/s 12(2) of the Land Acquisition Act, 1894 were issued on 02.01.2014 and 06.01.2014 and compensation amount was fixed for the writ petitioner as per the Land Acquisition Act, 1894 and the same were deposited at Sub Court, Ponneri, which was received by the petitioner as per the orders of the Subordinate Judge, Ponneri, dated 12.08.2015 in



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L.A.O.P.No.164/2015 and L.A.O.P.No.161/2015 respectively. Since the

Awards in this regard were passed prior to the Act, 2013, the petitioner's request claiming for redetermination of fair compensation as per Act, 2013 was rejected by the first respondent and if at all the petitioner has grievance in respect of the fixation of compensation there is a remedy available to the petitioner to file an objection before the Sub-Court Ponneri, under Section 18 of the Land Acquisition Act, 1894. Hence he prayed to dismiss the present Writ Petition with liberty to the petitioner to work out his remedy in the manner known to law.

5. Heard learned counsel appearing on either side and perused the materials placed before this Court.

6. Admittedly the petitioner's lands were acquired by the first respondent for the purpose of formation of outer Ring Road Scheme. It is brought to the notice of this Court that the awards were passed on 27.12.2013 and 30.12.2013 in respect of the petitioner's land under the provisions of the Land Acquisition Act, 1894. Thereafter, notices u/s 12(2) of the Land Acquisition Act, 1894 were issued by the acquisition authority on 02.01.2014 and 06.01.2014. Seeking determination of fair compensation as per Act, 2013,



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the petitioner made several representations before the first respondent, however, it is borne out by record that the petitioner's representations were rejected solely on the ground that the petitioner is not entitled to receive the compensation as per Act, 2013. Instead of referring the matter to the competent civil Court u/s 18 of the Land Acquisition Act, 1894 r/w Section 64 of the Act, 2013 for determination of enhancement in compensation, rejecting the petitioner's claim is not sustainable.

7. It is to be pointed out that since the awards were passed on 27.12.2013 and 30.12.2013, as per the provisions u/s 24 (1) (b) of the Act, 2013, *where an award under section 11 has been made then such proceedings shall continue under the provisions of the Land Acquisition Act, 1894, as if the said Act has not been repealed.* Further, it is the duty of the first respondent to refer the matter to the Competent Court u/s 18 of the Land Acquisition Act, 1894 read with Section 64 of the Act, 2013 for determination of fair compensation. Hence, this Court, without interfering the order impugned directs the land acquisition officer / first respondent to refer the matter to the competent civil Court for determination of fair compensation as per Section 18 read with Section 64 of the Act, 2013 for determination of enhancement in compensation within a period of twelve weeks from the date of receipt of a



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copy of this order.

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8. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No

Speaking order / Non speaking order : Yes / No

RAP

To

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M.DHANDAPANI, J.

RAP

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