



W.P.No.41658 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.41658 of 2016

Jeyarathi

... Petitioner

Vs.

1.The Government of Tamilnadu,
Rep. by its Secretary,
Tamilnadu Road Infrastructure Development,
Fort St.George,
Chennai – 600 009.

2.The Chairman,
Tamilnadu Road Infrastructure Development Corporation,
L.L.A. Buildings,
Anna Salai,
Chennai – 600 002.

3.The District Collector,
Collectorate,
Kanchipuram District.

4.The Special Tahsildar (Land Acquisition),
Oragadam Industrial Park Road,
Infrastructure Scheme,
43/36, Nehru Street,
Sriperumbudur – 602 105.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the



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fourth respondent in Na.Ka.No.40/2010/அ, dated 11.12.2015 which fixed amended award for a sum Rs.5,43,214/- excluding tax of Rs.62,376/- and to quash the same, which was fixed in the year of 2012, further direct the third respondent to pay the penalty, interest, costs, etc., to the petitioner for the default period and to release the amount to the petitioner.

For Petitioner : M/s.M.Malar
For R1, R3 & R4 : Mr.B.Vijay,
Additional Government Pleader
For R2 : No appearance

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus to call for the records of the fourth respondent in Na.Ka.No.40/2010/அ, dated 11.12.2015 which fixed amended award for a sum of Rs.5,43,214/- excluding tax of Rs.62,376/- and to quash the same, which was fixed in the year of 2012, further direct the third respondent to pay the penalty, interest, costs, etc., to the petitioner for the default period and to release the amount to the petitioner.

2. The case of the petitioner is that, in the year 1991, the petitioner had purchased the property comprised in Survey No.743/2, now sub-divided as 743/2A, measuring an extent of 625 sq.mts., situated at Uthukadu Koot Road, Uthukadu Village, Walajabath, Kancheepuram District, by virtue of a



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Sale Deed from one Mr.M.G.Manavalan through power holder

Mr.R.Chandran. The said Chandran is none other than the petitioner's

husband. Subsequent to the purchase of the aforesaid property, the petitioner is in absolute possession and enjoyment of the said property. While so, the fourth respondent acquired the aforesaid land under the Tamil Nadu Highways Act 2001 (Tamil Nadu Act 34/2002, in short, "the Act") by issuing Notification under Section 15(1) on 16.06.2010. Thereafter, the fourth respondent sent a notice to the petitioner's husband on 02.08.2010 under Section 16(2) of the Act and directed the petitioner to surrender or deliver possession thereof to the fourth respondent within 30 days of the service of the notice and subsequently the third respondent vide letter dated 18.12.2011 directed the petitioner's husband to appear for an enquiry and submit the details of the land in S.No.743/2 and sub-division in S.No.743/2A, measuring an extent of 625 sq.mts., for the purpose of fixing the quantum of the compensation for the said property, pursuant to which, the petitioner has appeared before the third respondent and submitted all the details regarding the said property. Thereafter, the respondents passed an award in Award No.10/2010, dated 30.03.2012 for a sum of rupees Rs.12,77,601/- (Twelve Lakhs Seventy Seven Thousand Six Hundred and One only) and the petitioner was eagerly waiting for the compensation. However, no



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communication was received from the third respondent and the third respondent orally stated that some portion of the aforesaid property stands in the name of petitioner's husband, and due to said reason, the respondents have not settled the compensation amount in favour of the petitioner. Therefore, for non-payment of the compensation amount, the petitioner filed Writ Petition before this Court in W.P.No.10708 of 2015. After hearing the Writ Petition, this Court by order dated 15.04.2015 issued a direction to the fourth respondent to take a decision and inform the same to the petitioner within a period of three weeks from the date of receipt of a copy of the order. Immediately, the third respondent passed an amended award dated 11.12.2015 and awarded a compensation amount of Rs.6,05,590/- (Six Lakhs Five Thousand Five Hundred and Ninety only) and deduction of income tax, the amount comes to sum of Rs.5,43,214/- (Five Lakhs Forty Three Thousand Two Hundred and Fourteen only) and the same was received by the petitioner. However, the balance compensation amount was not paid to the petitioner. Hence, the present Writ Petition.

3. The learned counsel for the petitioner submitted that, admittedly the petitioner is the owner of the property measuring an extent of 625 sq.mts., of land. Whereas, the compensation was paid only for an extent of 264



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sq.mts., of land and the balance compensation amount was not paid to the petitioner. Hence, this Court may issue a direction to the third respondent to pay the balance compensation amount within a stipulated time to be fixed by this Court.

4. Per contra, the learned Additional Government Pleader appearing for the respondents 1, 3 and 4, on instructions, would submit that admittedly the total extent of 625 sq.mts., of land was acquired from the petitioner and other persons. Out of 625 sq.mts., of land 264 sq.mts of land owned by the petitioner, for which, the fourth respondent awarded compensation amount of Rs.6,05,590/- (Six Lakhs Five Thousand Five Hundred and Ninety only), and for the extent of 185 sq.mts., of land is owned by Tamizharasi, for which, the third respondent paid compensation amount of Rs.3,09,612/- (Three Lakhs Nine Thousand Six Hundred and Twelve only) and another extent of 176 sq.mts., of land stands in the name of Nadar Sangam along with the power agent Mr.Chandran, and that amount was withheld to the tune of Rs.3,62,399/- (Three Lakhs Sixty Two Thousand Three Hundred and Ninety Nine only). The same was disbursed in respect of the respective persons. Further, he submitted that only for an extent of 176 sq.mts., of land compensation was retained by the respondents. Accordingly,



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he prayed for passing appropriate orders.

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5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents 1, 3 and 4 and perused the materials available on record.

6. The facts in the present case are not in dispute. Admittedly, the petitioner claims that she owned land, measuring an extent of 625 sq.mts., for which, the respondents have initiated Land Acquisition Proceedings and acquired the aforesaid land under the said Act and it is also an admitted fact that for an extent of 264 sq.mts. of land, the compensation amount was paid to the petitioner to the tune of Rs.6,05,590/- (Six Lakhs Five Thousand Five Hundred and Ninety only). This Court perused the records placed and perusal of the record reveals that out of Rs.6,05,590/- (Six Lakhs Five Thousand Five Hundred and Ninety only), only a sum of Rs.5,43,214/- (Five Lakhs Forty Three Thousand Two Hundred and Fourteen only) was paid to the petitioner and the sum of Rs.62,376/- (Sixty Two Thousand Three Hundred and Seventy Six only) is deducted as income tax. However, this Court is unable to understand how the land acquisition officer could deduct the income tax amount from the petitioner as it is not an income, but it is a



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compensation payable by the respondents to the petitioner. Hence, deducting

Rs.62,376/- (Sixty Two Thousand Three Hundred and Seventy Six only)

from the petitioner is *non-est* in law. Therefore, this Court directs the respondents to disburse the deducted amount of Rs.62,376/- (Sixty Two Thousand Three Hundred and Seventy Six only), to the petitioner within a period of four weeks from the date of receipt of a copy of this order.

7. The compensation amount in respect of other extent of 185 sq.mts., of land which was awarded in favour of one Tamizharasi to the tune of Rs.3,09,612/- (Three Lakhs Nine Thousand Six Hundred and Twelve only) and for the balance extent of 176 sq.mts., of land, the compensation amount which has been withheld to the tune of Rs.3,62,399/- (Three Lakhs Sixty Two Thousand Three Hundred and Ninety Nine only). Though, the petitioner claims that she is entitled to receive the compensation amount for an extent of 176 sq.mts., of land, which belongs to petitioner's husband/power agent, but the respondents claims that 176 sq.mts., of land stands in the name of Nadar Sangam and power agent/Chandran and in view of the disputed fact, the respondents are directed to refer the matter to the Competent Court for apportionment/payment of compensation within a period of four weeks from the date of receipt of a copy of this order.



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8. With the above terms and conditions, this Writ Petition is allowed. No costs.

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Index : Yes / No
Speaking order : Yes/ No
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To

- 1.The Secretary,
Government of Tamilnadu,
Tamilnadu Road Infrastructure Development,
Fort St.George,
Chennai – 600 009.
- 2.The Chairman,
Tamilnadu Road Infrastructure Development Corporation,
L.L.A. Buildings,
Anna Salai,
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M.DHANDAPANI, J.

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