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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.21794 of 2014

P.Ilamurugu

...Petitioner

vs.

1. The Special Tahsildar,
Land Acquisition,
M.R.T.S., Phase II Extension,
Mylapore, Chennai-600 004.
2. Thiru.C.Subbiah,
The Secretary,
Balaji Nagar Government Employees
Welfare and House Site Society,
No.49, Sri Balaji Nagar,
Adambakkam, Chennai-88.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 1st respondent to consider the petitioner's representation dated 01.08.2014 and thereby direct the 1st respondent to disburse the award amount of Rs.98,96,769/- to the petitioner in the light of the Award No.2/2013 dated 20.12.2013 and through the proceedings in Na.Ka.No.2/2011 dated 30.12.2013 passed by the 1st respondent to the petitioner without any further delay.

For Petitioner : Mr.S.Sundaresan

For Respondent R1 : Mr.P.Sathish, AGP.

For Respondent R2 : Mr.P.Raja

ORDER

This Writ Petition has been filed by the petitioner seeking for issuance of a Writ of Mandamus to direct the 1st respondent to consider the petitioner's representation dated 01.08.2014 and disburse the award amount to the petitioner in the light of the Award No.2/2013 dated 20.12.2013 and through the proceedings in Na.Ka.No.2/2011 dated 30.12.2013 passed by the 1st respondent to



the petitioner as expeditiously as possible.

2. The case of the petitioner is that, he purchased a vacant land comprised in Survey No.280/8, T.S.No.252/8, Block No.18, Patta No.43, situated at Balaji Nagar, Adambakkam Village, Kancheepuram District, measuring an extent of 22 cents from legal heirs of Late.Ponnusamy Naicker, through registered sale deed in Doc.No.662/2007 on the file of Sub Registrar Office, Alandur. Subsequent to the said purchase, the petitioner put up a superstructure in a portion of the above said land and obtained electricity connection and also got name transfer in the Revenue records in his favour. Whiles, a portion of the above said land, measuring to an extent of 466.5 sq.m., was decided to be acquired for the purpose of extension of M.R.T.S Scheme and by issuing notification under Section 4(1) of the Land Acquisition Act, 1894 (in short 'Act'), vide G.O.Ms.No.84, Housing & Urban Development Dept. dated 17.05.2011 and Declaration under Section 6 of the said Act, vide G.O.Ms.No.37, Housing & Urban Development Dept. dated 21.02.2012 and Award was passed in Award No.2 of 2013 dated 20.12.2013 and the compensation was fixed as Rs.98,96,769/-. Being the bonafide purchaser, the petitioner is entitled to claim the compensation, however, the compensation amount was not paid to the petitioner due to the objection raised by the vendors' legal heirs.

3. Whiles, the 1st respondent has directed the 2nd respondent to claim the compensation amount. Immediately thereafter, the petitioner filed several representation, however, there was no response. While such being the case, the 2nd respondent created a forged patta in respect of the acquired lands and received the compensation for the acquired lands. Aggrieved by the same, the petitioner filed a Writ petition in W.P.No.11401 of 2013 and this Court, vide order dated 26.02.2014 directed the 2nd respondent to furnish the bank guarantee in favour of Special Tahsildar, however, the same was not complied with by the 2nd respondent. Hence, the Special Tahsildar was directed to take appropriate action for recovery of compensation amount and make a reference immediately after initiating revenue recovery proceedings as against the 2nd respondent and a complaint to the said effect was also lodged as against the 2nd respondent. Thereafter, the petitioner along with other co-owners made a representation for enhancement of compensation, however, no steps has been initiated. Aggrieved by the inaction, the petitioner made another representation dated 01.08.2014 before the 1st respondent, seeking payment of compensation amount as mentioned in the proceedings in Na.Ka.No.2/2011 dated 30.12.2013 passed by the 1st respondent, however, till date, no orders have been passed on the same. Hence, the present writ petition is filed with the above prayer.



4. Though very many grounds have been raised, learned counsel for the petitioner submitted that, it would suffice, if this Court issues direction to the 1st respondent to consider the petitioner's representation dated 01.08.2014 in the light of the proceedings dated 30.12.2013 in Na.Ka.No.2/2011 and disburse the award amount of Rs.98,96,769/- to the petitioner within the time stipulated by this Court.

5. Learned Additional Government Pleader appearing for the 1st respondent submitted that, since it is a disputed question of fact, as the petitioner claims that he has purchased the property from legal heirs of Late.Ponnusamy Naicker, through their Power of Agent, one Selvam and the 2nd respondent claims that, they have purchased the property from the legal heirs of the petitioner's vendor, the compensation amount fixed for the acquired land was deposited before the Court below in terms of Sections 30 and 31 of the Land Acquisition Act, and the same is pending. Hence, this Court may issue direction to the petitioner as well as the 2nd respondent to approach the Court below and seek enhancement of compensation by making appropriate reference under section 18 of the said Act, if not already referred.

6. The learned counsel for the petitioner fairly conceded that, this Court may permit the petitioner to ventilate his grievance for enhanced compensation on the reference made and the respondents may be directed to provide the details of the reference and the court before which the reference is made so as to enable the petitioner to proceed accordingly.

7. Learned counsel appearing on behalf of the 2nd respondent has no grievance for the above said prayer sought for by the petitioner and he prayed this Court for permission to canvas their grievance before the LAOP Court, where the amount is deposited.

8. Heard the arguments advanced by the learned counsel on either side and perused the materials available on record.

9. In view of the above submissions, as the facts in the present case are disputed and as the amount is lying in revenue deposit before the competent court and that reference has already been made in LAOP.No.12 of 2014. In such circumstances, this Court directs the respondents to provide the particulars of the reference to the petitioner and this Court permits the petitioner to canvass his grievance for enhanced compensation by filing appropriate application and the Court below shall consider the petitioner's as well as the 2nd respondent's submissions and pass orders in the manner known to law.



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10. With the aforesaid directions, this Writ Petition is disposed of. No Costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

skt

To:

The Special Tahsildar,
Land Acquisition,
M.R.T.S., Phase II Extension,
Mylapore, Chennai-600 004.

+1cc to Mr.P.Raja, Advocate, S.R.No.23548
+1cc to the Government Pleader, S.R.No.23622

W.P.No.21794 of 2014

SMI (CO)
SB(14/06/2022)