



W.P.No.22580 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.09.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.22580 of 2019 and 4438 of 2020

K.R.Mohandoss
C.Ravikumar

..Petitioner in W.P.No.22580/2019
..Petitioner in W.P.No.4438/2020

Vs.

1.The Member Secretary C.M.D.A
Thalamuthu Natarajan Malligai,
Egmore, Chennai 600 008.

2.The Land Acquisition Officer and
Special Tahsildar (L.A) Unit-6,
O.R.R.Project Phase II, C.M.D.A
Koyambedu, Chennai 600 092.

...Respondents in both petitions

Common Prayer: Writ petitions have been filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus call for the records relating to impugned order dated 02.11.16 made in NA.KA.No.8 and 14/2002 AA1/ unit - 6 on the file of the 2nd respondent to make reference under section 18 of the Land Acquisition Act to the Jurisdiction Civil court quash the same.

For Petitioner in both petitions : Mr.V.Perumal

For RR1 in both petitions : Mrs.P.Veenasuresh

For RR2 in both petitions : Mr.P.Sathish

Additional Government Pleader



W.P.No.22580 of 2019

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Common Order

These petitions have been filed for issuance of writ of Certiorarified Mandamus to call for the records relating to impugned order dated 02.11.16, on the file of the 2nd respondent to make reference under section 18 of the Land Acquisition Act to the Jurisdiction Civil court and quash the same.

2. The case of the petitioners is that they were the owners of the property in S.F.No.2/3B measuring 0.22.5 hectares and was in continuous possession and enjoyment of the property. At this juncture, the 2nd respondent issued a notification under Section 4(1) of the Land Acquisition Act, 1894 on 04.04.2003, for formation of outer ring road by C.M.D.A and in that regard, the petitioners were not issued with any notice as mandated under the Act and thereafter, an award seems to be passed on 20.01.2005, without the knowledge of the petitioners. Immediately, the petitioners have made representation to the 2nd respondent on 21.09.2015 seeking to refer the matter under Section 18 of the Act to the concerned Civil Court for reference, since the amount



W.P.No.22580 of 2019

awarded by the land acquisition officer is very low and the said representation was made within six months from the date of knowledge about the passing of award by the 2nd respondent, however the 2nd respondent issued the impugned order, rejecting their claim holding that his application for reference is barred by limitation. Aggrieved by the same, the petitioners are before this Court.

3. The learned counsel appearing for the petitioners submitted that the petitioners had knowledge about the passing of the award of the compensation through Lokadalat Settlement. Immediately, they made application seeking to refer the matter under Section 18 of the Act, within 6 months from the date of knowledge, however their application was rejected, which is not sustainable and prays for allowing of these petitions.

4. The learned Additional Government Pleader appearing for the respondents submitted that notices under Section 12(2) was served on the land owner and prior to that the petitioner has appeared for award enquiry and because of the non production of the documents, the amount was kept under revenue deposit and further the petitioner appeared



W.P.No.22580 of 2019

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before the respondent only on 21.09.2015 and produced all the documents and claimed compensation and received the compensation awarded under protest. Further the petitioner ought to have sent his representation within 6 months from the date of passing award or within 6 weeks from the date of receiving 12(2) notice, however in the present case, the petitioners have submitted application after a period of 10 months and therefore, such application was beyond the period of limitation as contemplated under Section 18 of the Act and hence, no reference has been made, since it is barred by limitation and the impugned order does not warrant interference of this Court and prays for dismissal of this petition.

5. Heard the submission of the learned counsel appearing for the petitioner and the respondents.

6. Admittedly the petitioners lands were acquired for formation of outer ring road by C.M.D.A and the award was passed on 31.08.2005. Though the respondents claimed that Section 12(2) notice was issued, the said fact is disputed by the petitioner. Further the fact remains that the outer ring road was formed, immediately after acquisition and



W.P.No.22580 of 2019

therefore, the petitioner cannot claim that he had knowledge of the acquisition only in the lokadalat proceedings and further the petitioner made application for making a reference beyond the period of limitation. Though it is claimed by the petitioner that he had made application within a period of six months from the date of knowledge, as per the Full Bench decision of this Court reported in **2008 (2) LW 560 (N.Rajaraman Vs. The Special Tahsildar (Adi Dravidar Welfare), Gingee)**, the application of the petitioner is barred by limitation and in the said decision, the limitation aspect has been considered, wherein it was particularly held that *'for making a reference under Section 18 of the Act, a written application after the award is passed is mandatory and such application is required to be made within the period of limitation prescribed under Section 18 of the Act. The reference is answered accordingly.* Therefore, it is clear that written application after passing of an award, is mandatory and the same is required to be made within the period of limitation prescribed under Section 18 of the Act.

6. In view of the categorical pronouncement of the order of this



W.P.No.22580 of 2019

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Court, the prayer of the petitioner cannot be granted for the reason that he has not made application under Section 18 of the Act, within the period of limitation. Accordingly, this Writ Petition is dismissed. No costs.

08.09.2022

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To

- 1.The Member Secretary C.M.D.A
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W.P.No.22580 of 2019

M.DHANDAPANI.,J.

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