



W.P.No.25652 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.09.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.25652 of 2022
and
WMP.No.24656 of 2022

P. Sellappan

.. Petitioner

Vs.

1. The District Collector,
Namakkal.
2. The land acquisition Officer and
Revenue Divisional Officer,
Namakkal Taluk 637 001.

..Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus directing the respondents 1 and 2 to disburse the enhanced compensation amount in petitioner's favour which was awarded by the second respondent herein in Award No.45/2016 dated 04.08.2016 for the acquisition made in S.No.361/3, 4 situated in



W.P.No.25652 of 2022

Siluvampatti Village of Namakkal Taluk with a total extent of 1.62.5 Hectares of Land based on petitioner's representation dated 06.09.2022 and pass orders.

For Petitioner : Mr.L. Labrar and Abdullah

For Respondents : Mr.T.K.Saravanan
Government Advocate

ORDER

This writ petition is filed for issuance of Writ of Mandamus directing the respondents 1 and 2 to disburse the enhanced compensation amount in petitioner's favour which was awarded by the second respondent herein in Award No.45/2016 dated 04.08.2016 for the acquisition made in S.No.361/3, 4 situated in Siluvampatti Village of Namakkal Taluk with a total extent of 1.62.5 Hectares of petitioner's Land based on petitioner's representation dated 06.09.2022.

2. Brief facts relating to the case is as follows:

2.1. The facts of the case is that the subject land was acquired by the Notification under section 4(1) of the Land Acquisition Act, 1894 (herein after referred as The Act) approved by G.O.M.S.No. 466



W.P.No.25652 of 2022

(Revenue) dated 05.06.1988 for the purpose of formation of Master plan complex to construct Collectorate building and various Government Buildings. Thereafter the Special Tahsildar (land Acquisition) passed an award on 25.05.1999 in Award No.7/1998 determining the compensation to be payable to the interested persons. Not satisfied with the determined compensation amount the petitioner's father who is the owner of the subject land made an application under Section 18 of the Act to the first respondent and the same came to be decided under LAOP No.37/2007 filed on the file of Additional District Court, Namakkal on 12.02.2014. The petitioner's father had already obtained a final decree dated 11.02.2021 passed in O.S.No.236 of 2000 wherein it was stated that the petitioner's father is entitled to receive the redetermined compensation amount.

2.2. It is further case of the petitioner, the owners of the subject land including the petitioner's father sought reference to the award which was numbered as LAOP Nos. 5 to 173 of 2007 before Additional District Court, Namakkal, wherein the compensation amount was enhanced. Aggrieved over the said award the second respondent preferred an appeal



W.P.No.25652 of 2022

before this Court in A.S.No.110 of 2015 wherein the same came to be dismissed by this Court by an order dated 17.08.2015. Thereafter petitioner's father filed an application under Section 28(A) of the Act before the first respondent on 30.04.2014 seeking redetermination of the compensation amount as per the award passed in L.A.O.P.No.37 of 2007 dated 12.02.2014. Pending the same petitioner's father passed away and the second respondent permitted the petitioner to proceed the cases initiated by his father.

2.3. Subsequently the second respondent passed an award on Award No.45/2016 dated 04.08.2016 under Section 28A of the Land Acquisition Act, 1894 and enhanced the compensation amount. However it was directed that the compensation amount should be deposited in Sub Court, Namakkal and not to be disbursed to the petitioner citing the reason that will executed by the petitioner's father to the petitioner in Doc.No.21/2014 registered on the file of Sub Registrar II Namakkal was an insufficient document due to the reason as there were other legal heirs also. Hence the petitioner filed a Prob.O.P.No.24 of 2017 on the file of Principal District Judge, Namakkal seeking for issuance of probate



W.P.No.25652 of 2022

empowering the petitioner to succeed the estate of his father and the same was allowed on 10.07.2018 on the ground that petitioner's sister and brother did not object the will being probated in petitioner's favour and the same was also recorded in the order passed in Prob.O.P.No.24 of 2017.

2.4 Thereafter the petitioner gave a representation to the second respondent on 06.09.2022 to disburse compensation amount awarded in Award No. 45 of 2016 enclosing all the relevant documents which is evident to prove that he is entitled to receive the enhanced compensation amount. However the same was not considered. Hence the petition.

3. The learned counsel for the petitioner submits that there is no legal impediment for the second respondent to disburse the compensation amount to the petitioner. Hence prays this Court to pass appropriate orders.

4. The learned Government Advocate submits that as the petitioner representation will be considered on merits and in accordance with law.



W.P.No.25652 of 2022

WEB COPY

5. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials available on record,

6. In view of the above facts this Court is inclined to issue the following directions:

a. The petitioner is directed to file an application to withdraw the amount lying in Award No.45 of 20166 dated 04.08.2016 before the Sub Court, Namakkal.

b. The trial Court is directed to verify all the relevant documents and disburse the amount to the petitioner within a period of three months from the date of filing of such application, if the compensation amount is not disbursed.

7. With the above directions this writ petition is disposed of. No costs. Consequently the connected miscellaneous petition is closed.

23.09.2022

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W.P.No.25652 of 2022

Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

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2. The land acquisition Officer,
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W.P.No.25652 of 2022

M.DHANDAPANI,J.

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W.P.No.25652 of 2022

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WMP.No.24656 of 2022

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