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W.P.No. 28087 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 20.10.2022

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No. 28087 of 2022

and

WMP.Nos. 27369 & 27370 of 2022

P.Sellappan

.. Petitioner

Versus

1. The District Collector
Namakkal.

2. The Land Acquisition Officer and
Revenue Divisional Officer
Namakkal Taluk - 637 001.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari, to call for the records of the award in Award No. 01 of 2021 passed by the 2nd respondent in Roc.No.1933/2014/A7, dated 19.07.2021 and quash the same.

For Petitioner : Mr.I. Abrar Md. Abdullah

For Respondents : Mr.U. Bharanidharan
Additional Government Pleader



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ORDER

This writ petition is filed challenging the impugned order in Award No.01 of 2021 passed by the 2nd respondent in Roc.No. 1933/2014/A7, dated 19.07.2021 and quash the same.

2. The case of the petitioner is that the properties with a total extent of 0.45.5 hectares in S.No. 350/1, situated at Siluvampatti Village of Namakkal Taluk, belonged to his father deceased Palanivelu. During his life time, the said properties were acquired under the Land Acquisition Act, 1894. The said acquisition was made for the purpose of constructing Collectorate building and various Government Office buildings. Subsequently, the Special Tahsildar (Land Acquisition), Namakkal passed an Award on 25.05.1999 in Award No.1 of 1998, determining the compensation payable to the interested persons. Thereafter, the petitioner's father made an application under Section 18 of the Act to the 1st respondent for making reference to the civil Court in respect of the compensation awarded and the same came to be decided in LAOP.No.48 of 2007 by the Additional District Court, Namakkal on 12.02.2014,



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according to which, the compensation was fixed at Rs.26 per sqft. The petitioner's father had already obtained a final decree dated 11.02.2001 passed in O.S.No.236 of 2000 stating that his father is entitled to receive the re-determined compensation amount. Meanwhile, the 2nd respondent preferred an appeal in A.S.No.110 of 2015 to A.S.No.278 of 2015 before this Court, which was dismissed on 17.08.2015. The petitioner's father filed an application under Section 28(A) of the Act, before the 1st respondent on 30.04.2014 seeking redetermination of the compensation amount at the same rate as was awarded to other claimants, pursuant to the judgment and decree of the reference Court made in LAOP.No.37/2007, dated 12.02.2014. During the pendency of the said application, his father died on 22.01.2016. Prior to his death, his father had executed a Will in favour of the petitioner in Doc.No.21/2014 bequeathing the said properties in favour of the petitioner which registered on the file of Sub Registrar-II, Namakkal. Subsequent to the death of his father, Award No.01 of 2021, dated 19.07.2021 was passed by the 2nd respondent under Section 28A (2) of the Land Acquisition Act, 1894 wherein, the compensation amount was enhanced. But, it was directed to be deposited in Sub-Court, Namakkal citing the reason that the Will dated 13.03.2014 was an insufficient document to release the award amount in



his favour since there were other legal heirs also. However, the petitioner filed a petition in Prob.O.P.No. 24 of 2017 on the file of Principal District Judge, Namakkal, seeking for issuance of probate to succeed the estate of his deceased father and the same was allowed on 10.07.2018. The brother and sister of the petitioner herein did not object to the same and therefore, in view of the said order, the petitioner is entitled to receive the entire compensation. In this regard, the petitioner made a representation dated 21.09.2022 to the 2nd respondent, but no action has been taken on the representation of the petitioner dated 21.09.2022. Hence this petition.

3. The learned counsel appearing for the petitioner contended that pursuant to the impugned order, the petitioner filed Prob.O.P.No. 24 of 2017 on the file of Principal District Judge, Namakkal, seeking for issuance of probate to succeed the estates of his deceased father and the same was allowed on 10.07.2018 in favour of the petitioner after recording no objections from the brothers and sisters and there is no legal impediment for the Land Acquisition Officer to disburse the award amount in favour of the petitioner.

4. This Court also heard the submissions of the learned Additional

Government Pleader appearing for the respondents.



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5. Heard both sides and perused the records.

6. A careful perusal of the materials available on record reveal that Probate has already been obtained by the petitioner in Probate.O.P.No.24 of 2017, which clearly shows that the Will has been accepted as genuine and the other legal heirs have not objected to the petitioner receiving the compensation for the lands. That being the case, it is incumbent upon the respondents to release the determined award amount to the petitioner and they cannot claim insufficiency of document to negate the claim of the petitioner. Such being the undisputed position and there being sufficient material available on record to substantiate that the petitioner is entitled to receive the compensation amount, necessarily an affirmative direction has to be issued to the respondents to disburse the compensation amount, as awarded to the lands acquired to the petitioner within a prescribed time.

7. Accordingly, this writ petition is disposed with a direction to the

2nd respondent to disburse the enhanced compensation amount to the



petitioner, within a period of six weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed.

There shall be no order as to costs.

20.10.2022

msm

To

1. The District Collector
Namakkal.
2. The Land Acquisition Officer and
Revenue Divisional Officer
Namakkal Taluk - 637 001.

M.DHANDAPANI, J.



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7

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