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W.P.Nos.3205 and 3206 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.3205 and 3206 of 2017

And

W.M.P.Nos.36863 and 36537 of 2019

S.Vijayakumar ... Petitioner in W.P.3205/2017

S.Ganapathy ... Petitioner in W.P.3206/2017

Vs.

1.The District Collector,
Kancheepuram District,
Kancheepuram.

2.Special Tahsildar (Land Acquisition),
Oragadam Industrial Park Road,
Sriperumbudur. ... Respondents in both W.Ps.

Prayer in W.P.No.3205 of 2017:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for all the records of the first respondent pertaining to the land acquisition and the order dated 05.08.2016 vide Na.Ka.Number 25015/2009/F2 and quash the same and direct the first respondent to send the necessary acquisition papers to the concerned court to get appropriate compensation.



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Prayer in W.P.No.3206 of 2017:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for all the records of the second respondent pertaining to the land acquisition and the order dated 21.10.2016 vide Na.Ka.Number 11/2010/A and quash the same and direct the first respondent to send the necessary acquisition papers to the concerned court to get appropriate compensation.

For Petitioners : Mr.D.S.Ramesh
For Respondents : Mr.G.Krishna Raja
Additional Government Pleader

COMMON ORDER

The petitioners have filed these writ petitions challenging the land acquisition and for a direction to the first respondent to send the necessary acquisition papers to the concerned Court to get appropriate compensation.

2.Since the issue involved in both these writ petitions are one and the same, they are heard together and disposed of by way of a common order.



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3.The case of the petitioners is that the second respondent acquired a portion of their lands and without any enquiry, fixed the compensation amount and deposited the same in the Treasury. Hence, the petitioners requested the respondents to increase the compensation amount and if they are not willing to do the same, to refer the matter to the Court to decide the compensation amount as per Law. Thereafter, the respondents issued cheque in favour of the petitioners for the compensation amount, however, they neither increased the compensation amount nor referred the matter to the Court. Hence, the petitioners made representation to the respondents seeking to refer the matter to the competent Court to decide the compensation amount as per Law and since the same was not considered, the petitioners filed W.P.Nos.10563 and 5837 of 2016 respectively, before this Court and pursuant to the order made in the said writ petitions, the impugned orders came to be passed. Hence, these writ petitions.

4.The second respondent has filed counter affidavit, wherein, it is stated that the land acquisition proceedings were initiated in the year 2009 and Notification under Section 15(2) of the Tamil Nadu Highways Act, 2001 [hereinafter referred to as 'Act'] was published in



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the daily newspapers on 26.08.2009. The land owners appeared for enquiry on 25.09.2009 at Collector Office, Kancheepuram and requested compensation at the prevailing rate of market value. Thereafter Notification under Section 15 (1) of the Act was published in the Tamil Nadu Government Gazette on 07.07.2010 and award was passed on 28.03.2012 under Award No.7 of 2012. Since there was no claim on the part of the writ petitioners, the compensation amounts pertaining to them were deposited in the Treasury. Thereafter, the compensation amounts were drawn and paid to them through cheque on 12.03.2015 and 18.09.2014 respectively.

5.It is further stated in the counter affidavit that the petitioners filed W.P.Nos.10563 and 5837 of 2016 respectively, before this Court and in compliance of the order of this Court dated 17.02.2016 made in the said writ petitions, the request of the petitioners was rejected since as per Section 20 (1) of the Tamil Nadu Highways Act, 2001, the representation for enhancement of compensation has to be sent to the competent Court within 60 days from the date of award.

6.The learned counsel appearing for the petitioners submitted



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that no notice was given to the petitioners before acquiring their land and they were not aware of the passing of Award till the compensation amount was paid to them by way of cheques on 12.03.2015 and 18.09.2014 respectively. Hence, there is no delay on the part of the petitioners. The learned counsel further prayed that this Court may issue direction to the respondents to pay adequate compensation to the petitioners.

7.The learned Additional Government Pleader submitted that award was passed during the year 2012, whereas, the petitioners made representation seeking to refer the matter to the competent Court only on 23.01.2016 and 07.03.2016 respectively. Hence the impugned orders warrants no interference.

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

9.The facts in the present case is not in dispute. Admittedly, portion of the petitioners lands were acquired under the Tamil Nadu Highways Act, 2001. The land acquisition proceedings were initiated in



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the year 2009 and Notification under Section 15(2) of the Act was published in the daily newspapers on 26.08.2009. The land owners appeared for enquiry on 25.09.2009 at Collector Office, Kancheepuram and requested compensation at the prevailing rate of market value. Thereafter Notification under Section 15 (1) of the Act was published in the Tamil Nadu Government Gazette on 07.07.2010 and award was passed on 28.03.2012 under Award No.7 of 2012. Initially, the compensation amounts pertaining to the petitioners were deposited in the Treasury. Thereafter, it was drawn and paid to them through cheque on 12.03.2015 and 18.09.2014 respectively.

10. Thereafter, the petitioners filed W.P.Nos.10563 and 5837 of 2016 respectively, before this Court and in compliance of the order of this Court dated 17.02.2016 made in the said writ petitions, the request of the petitioners was rejected on the ground of delay.

11. For better appreciation, Sections 19 and 20 of the Tamil Nadu Highways Act, 2001 are extracted hereunder:

"19.Determination of amount. -

(1) Where any land is acquired by the Government under this Act, the Government shall pay an amount for such acquisition, which



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shall be determined in accordance with the provisions of this section.

(2) Where the amount has been determined by agreement between the Government and the person to whom the amount has to be paid, it shall be paid in accordance with such agreement.

(3) Where no such agreement can be reached, the Government shall refer the case to the Collector for determination of the amount to be paid for such acquisition as also the person or persons to whom such amount shall be paid:

Provided that no amount exceeding such amount as the Government may, by general or special order, specify, to be paid for such acquisition shall be determined by the Collector without the previous approval of the Government or such officer as the Government may appoint in this behalf.

(4) Notwithstanding anything contained in sub-section (3), after the case is referred to the Collector under that sub-section, but before he has finally determined



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the amount, if the amount is determined by agreement between the Government and the person to whom the amount has to be paid, such amount shall be paid by the Collector in accordance with such agreement.

(5) Before finally determining the amount, the Collector shall give an opportunity to every person to whom the amount has to be paid to state his case as to the amount.

(6) In determining the amount, the Collector shall be guided by the provisions contained in Sections 23 and 24 and other relevant provisions of the Land Acquisition Act, 1984 (Central Act 1 of 1894), subject to modification that in the said sections 23 and 24, the references to the date of publication of the declaration under Section 6 of the said Act shall be construed as reference to the date of publication of notice under sub-sections (2) and (1), respectively, of Section 15 of this Act.

(7) For the purpose of determining the amount -

(a) the Collector shall have power to require any person to deliver to him such



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returns and assessments as he considers necessary;

(b) the Collector shall also have power to require any person known or believed to be interested in the land to deliver to him a statement containing as far as may be practicable, the name of every other person interested in the land as co-owner mortgagee, tenant or otherwise, and the nature of such interest, and of the rents and profits, if any, received or receivable on account thereof for three years next preceding the date of the statement.

(8) Every persons required to deliver a return, assessment or statement under subsection (7) shall be deemed to be legally bound to do so within the meaning of Section 175 and Section 176 of the Indian Penal Code (Central Act XLV of 1860).

(9) The Collector may hear expert wittiness if it be necessary to do so in any particular case.

(10) The Collector or any officer authorised by him in this behalf shall be



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entitled to enter in and inspect any land which is subject to proceedings before him.

(11) The Collector shall dispose of every case referred to him under sub-section (3) for determination of amount as expeditiously as possible and in any case within six months from the date such reference.

(12) Where any case is referred to any Collector under sub-section (3), the Government may, at any stage by order, in writing and for reasons to be recorded therein, transfer it to any other officer, and upon such transfer, unless some special directions are given in the order, the officer to whom the case is transferred, may hear and dispose of the case from the stage at which it was transferred or the case may be heard and disposed of by him *de novo*.

20. Reference to Court. - (1) Any person aggrieved by the decision of the Collector, or the officer to whom the case was transferred, determining the amount may, within sixty days from the date of such decision, in so far as it affects him, by application to the Collector or the officer to



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whom the case was transferred, require that the matter be referred by him for the determination of the Court as defined in the Land Acquisition Act, 1894 (Central Act 1 of 1894), and when any such application is made, the provisions of part III of the said Act shall *mutatis mutandis* apply to further proceedings in respect thereof.

(2) The decision of the Court on such reference and subject only to such decision of the Collector determining the amount shall be final."

12.Perusal of the above provisions makes it clear that before finally determining the amount, the Collector shall give an opportunity to every person to whom the amount has to be paid to state his case as to the amount.

13.In the present case, award was passed on 28.03.2012. Though the compensation amount was initially deposited in the Treasury, thereafter, it was drawn and paid to the petitioners through cheque on 12.03.2015 and 18.09.2014 respectively. Though the petitioners were aware of the compensation when they received the



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same by way of cheque, they did not make application to the District Collector seeking to refer the matter to the competent Court for determination of compensation within a period of 60 days, however, they filed writ petitions before this Court that too during the year 2017 though the impugned order was passed in the year 2016, which is also beyond the period of 60 days. Hence, the impugned orders warrants no interference and the prayer sought for in these writ petitions cannot be granted.

14. These writ petitions are accordingly dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

05.07.2022

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

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Kancheepuram District,
Kancheepuram.
2. The Special Tahsildar (Land Acquisition),
Oragadam Industrial Park Road,
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