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W.P.No. 13815 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No. 13815 of 2017

and

WMP.No. 15007 of 2017

Ugama Kavar

... Petitioner

Versus

1. The District Collector
Kancheepuram District
Kancheepuram.
2. The Special Tahsildar
(Land Acquisition)
Oragadam SIPCOT
Road Development Scheme
Sriperumbudur.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent in his proceedings in Na.Ka.8495/2009/F2, dated 13.02.2017, the second respondent pertaining to his proceedings in Na.Ka.02/2010/A, dated 03.04.2017 and quash the same and consequently,



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to direct the respondents to refer the petitioner's representation dated 24.10.2016 to jurisdictional Court for enhanced compensation within a reasonable time frame as fixed by this Court.

For Petitioner : Mr.I.A. Abnal Mohammed Abdullah

For Respondents : Mr.G. Krishna Raja
Additional Government Pleader

ORDER

This writ petition is filed challenging the impugned orders in Na.Ka.No.8495/2009/F2, dated 13.02.2017 passed by the first respondent and in Na.Ka.No.02/2010/A, dated 03.04.2017 passed by the second respondent, quash the same and for consequential direction to the respondents to refer the petitioner's representation, dated 24.10.2016 before the Jurisdictional Court for enhanced compensation.

2. The grievance of the petitioner is that she is the owner of the property comprised in Survey No.348C/1A1, 348C/1A2, 348C/2B and 348/C2 of Thirukatchur Village, Chengalpet Taluk, Kancheepuram District, measuring an extent of 2.335 acres. She has purchased the aforesaid



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properties by way of registered sale deed, dated 10.03.2008 vide Doc.Nos.2102 and 2140 of 2008 on the file of Chengalput Joint Registrar-II measuring an extent of 1.08 acres and 0.57 acres from one Mr.Sairam Muthusamy and by another registered sale deed, dated 10.11.2018 vide Doc.No.9416 of 2009 measuring an extent of 0.55 acres from one Mr.K.Kathavarayan, on the file of Chengalput Joint Registrar-II. In the meanwhile, the respondents acquired the aforesaid lands, namely, 00250 to 00450 hectares of land in S.No.348/1A1 part, 348C/1A2 part for widening the road. Subsequently, an interim award has been passed for a sum of Rs.7,56,409/- in respect of Survey No.348C/1A1 and 1A2B measuring an extent of 00450 hectares and for a sum of Rs.4,23,005/- in respect of Survey No.348C/1A1(part) for land measuring an extent of 00250 hectares. According to the petitioner, the interim award is very meager. In this regard, the petitioner made an application, dated 24.10.2017 requesting the matter to be referred before the Competent Civil Court for determination of compensation in terms of Section 20(1) of the Tamil Nadu Highways Act, 2001, but the claim of the petitioner was rejected by the respondents. Aggrieved over the same, the petitioner has come forward with the present writ petition under Article 226 of the Constitution of India.



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3. Mr.G.Krishna Raja, learned Additional Government Pleader appearing for the respondents submitted that the land acquisition proceedings were initiated in the year 2009 itself, for the land measuring an extent of 41272 sq.mtrs including the petitioner's land measuring an extent of 00250 and 00450 sq.mtrs in S.No.348C/1A2B respectively at Thirukachur Village, Chengalpet Taluk, Kancheepuram District for widening the existing road i.e., Singaperumalkoil to Sriperumbudur. Subsequently, an Award No.08/2016, dated 10.08.2016 has been passed. However, the petitioner has claimed on 24.10.2016 for enhancement of compensation under Section 20(1) of the Tamil Nadu Highways Act, 2001. It is the further contention of the learned Additional Government Pleader that under Section 20(1) of the Tamil Nadu Highways Act, 2001, any application seeking enhanced to competent civil Court has to be made within as 60 days' time from the date of Award. However, the application of the petitioner is beyond the period of 60 days and therefore, it cannot be entertained and therefore it was rightly rejected. Hence, he prayed for dismissal of the writ petition.



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4. Heard the learned counsel for the petitioner and the learned Additional Government Pleader and perused the materials placed on record.

5. On a perusal of the entire records, it is seen that Section 19 of the Tamil Nadu Highways Act, makes it clear that where any land is acquired by the Government, the Government shall pay an amount for such acquisition, which shall be determined in accordance with the provisions of this section, and the decision can be arrived with regard to determination of compensation amount, which can be arrived by way of agreement between the Government and the land owners. If no such agreement is arrived at between the Government and the land owners, the matter shall be referred to the first respondent herein/District Collector. As per Section 19 (5) of the Act, before determining the award amount, the first respondent shall give an opportunity to every person to whom the amount has to be paid. For better understanding Section 19(5) is extracted hereunder:-

"19.5 Determination of amount.-

(1) ... to (4)...

(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."



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Section 20 of the Act deals with reference to the Court seeking enhancement. For better appreciation, the relevant provision is extracted hereunder :-

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 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.

6. A careful perusal of Sections 19 and 20 reveals that before determination of the final compensation amount, a duty is cast upon the authority to issue notice of personal hearing to the person interested/land owner and receive the objection, whereinafter, alone he can pass orders with regard to quantification of compensation. However, in the case on hand, there is no material placed before this Court to show that before passing the



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award in Award No.8/2016, an opportunity of personal hearing was granted to the petitioner to put forth his case seeking enhancement of compensation or to place his objections with regard to the compensation awarded.

7. Section 20 of the Act comes into play only after compliance of Section 19 (5). True it is that within 60 days of the award, the person interested/land owner has to file application seeking for reference before the Civil Court. However, in the case on hand, there being no compliance of Section 19 (5) of the Act, the stand of the respondents that the application seeking enhancement has not been filed within the period of 60 days cannot be accepted. The respondents have to first fulfil the mandate provided u/s 19 (5) before calling upon the petitioner to comply with the time prescribed u/s 20. In the absence of compliance of Section 19 (5), the stand of the respondents that the application for reference has been filed beyond the period of limitation is unsustainable.

8. In the aforesaid circumstances, the impugned order passed by the respondents is liable to be set aside and accordingly the same is set aside. The writ petition is allowed and the matter is remanded to the respondents



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for referring the matter u/s 20 (1) of the Tamil Nadu Highways Act before the competent Civil Court for determination of enhancement of compensation within a period of twelve weeks from the date of receipt of a copy of this order.

9. The writ petition is allowed with the aforesaid observations and directions. No costs. Consequently, connected Miscellaneous Petition is closed.

05.08.2022

msm

Speaking Order/ Non Speaking Order

Index: Yes/ No

To

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M.DHANDAPANI, J.

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