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W.P. No.17671 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.07.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.17671 of 2017
and WMP.No.19176 of 2017

1. Jayalakshmi
2. Govindharajalu
3. Dhatchanamurthy
4. Brema
5. Nandhakumar
6. Gowri
7. Ellusamy
8. Ramachandran
9. Vasantha
10. Vatchala
11. Santhi
12. Geetha

... Petitioners

Vs.

- 1 Union Territory of Puducherry
Represented by its Chief Secretary,
Secretariat, Puducherry.



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2 The Secretary to Government,
Revenue Department, Puducherry.

3 The Deputy Collector (Rev),
South-cum- the Land Acquisition officer,
Special Economic Zone,
Villianur, Puducherry.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari calling for the records of the impugned communication dated 01.06.2017 made by the 3rd respondent herein in his proceedings in No.683/DCRS/ LA/ SEZ/ DT/ 2017 and quash the same and consequently direct the 3rd respondent herein to refer the case of the petitioner herein under section 18 of Land Acquisition Act for enhanced compensation pertaining to their acquired lands covered under Award No. 2/2008.

For Petitioners : Mr.D.Ravichander

For Respondents : Mr.J.Kumaran, AGP
Puducherry

ORDER

The case of the petitioners is that the petitioners are the co-owners of the lands which were acquired by the 3rd respondent herein under Section 17 of the Land Acquisition Act pursuant to the notification bearing GO.Ms.No.28 dated 11.03.2005, in which, 80% of the compensation amount



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was deposited to the petitioner. The petitioners made an applications on 13.10.2006 to refer the matter for fixing fair compensation. The said representation was not considered by the respondents. Therefore, the petitioners filed a writ petition before this Court in W.P.Nos.34898 & 34899 of 2007 and this Court, vide its order dated 05.03.2008, issued a direction to the reference Court to resolve the dispute under Section 30 of the Land Acquisition Act (in short "the Act") and further, directed the said reference Court to take the issue of enhancement of compensation, in the event of parties making a reference under Section 18 of the said Act including the payment of interest. Even then, the said order was not complied with and therefore, the petitioner again made representation on 10.05.2017 to refer the matter for fixing fair compensation as per the order passed in the above said writ petitions and the same was rejected on the ground that the petitioners' representation was received after lapse of time limit prescribed under Section 18 of the Act. Challenging the said impugned order dated 01.06.2017, the petitioners have filed the present writ petition before this Court.

2. The learned counsel for the petitioners submitted that the petitioners land was acquired by the respondents for setting up the Special Economic Zone, for which, the Government invoked the urgency provision for



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acquisition. The Land Acquisition Officer has arrived at the compensation on 25.01.2008 and paid 80% of the total amount to the petitioners. However, before receiving the compensation, the petitioners informed the land acquisition officer that the compensation fixed is very low and as such, they have made representation on 13.10.2006 seeking for reference under Section 18 of the Act and the same was kept pending. Therefore, the petitioners made a reminder representation dated 31.01.2017 to the 3rd respondent to refer the matter for fixing the fair compensation. But the third respondent rejected the petitioner's request. Therefore, the learned counsel seeks to quash the impugned order and to issue a direction to the 3rd respondent to refer the case of the petitioners under Section 18 of the Act for enhanced compensation.

3. In support of his contention, the learned counsel relied upon the judgment of the Hon'ble Division Bench of this Court reported in **2018 (1) CTC 689** wherein the Hon'ble Division Bench of this Court categorically held that *in matters relating to the acquisition by invoking urgency clause under Section 17 of the Land Acquisition Act, the protest letter submitted while accepting 80% of the total compensation determined by the Land Acquisition Officer would meet the requirement of Section 18 of the Land*



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Acquisition Act. The above said decision of the Hon'ble Division Bench of this Court is squarely applicable to the present case on hand.

4. The learned Addl. Government Pleader (Puducherry), on instructions, submitted that the parties have not submitted their representation for enhancement of compensation under Section 18 of the Land Acquisition Act within the stipulated time.

5. Heard the learned counsel on either side and perused the materials available on record.

6. The facts of the case are not in dispute. Admittedly, the petitioners land was acquired by invoking under Section 17 of the Land Acquisition Act. It appears that the petitioners have no knowledge about the enquiry conducted under the provision of the Act and it is the case of the petitioners that on 13.10.2006, they expressed their dissatisfaction regarding the compensation fixed. However, the matter was not referred to the Civil Court for deciding the claim for enhanced compensation and thereafter, the petitioners made several representations to the Land Acquisition Officer. It is also admitted fact that after receipt of 80% of the compensation amount,



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immediately the petitioner made an application on 31.01.2017 to refer the matter under Section 18 of the Act for fixing the fair compensation. However, the third respondent, vide his proceeding dated 01.06.2017, passed the following order:

"In continuation to the letter cited first under reference, I am to inform that notice under Section 12(2) of the Land Acquisition Act, 1894, were served on all the pattadaras. In case of non-receipt of 12(2) notice, then the application seeking enhanced compensation ought to have been made within 6 months from the date of collectors award. Whereas, your representation was received after a lapse of this time limit. Hence, your representation could not be referred to the civil Court for determining enhanced compensation."

7. In such circumstances, the learned counsel for the petitioners relied upon the decision of the Division Bench of this Court in the case of **Government of Puducherry, Rep. By its Chief Secretary, Puducherry and others Vs. Ramalingam and others** reported in **2018 (1) CTC 689** is squarely applicable to the case on hand. For better appreciation, the relevant portion of the said order is quoted hereunder :-

".....

10. However, that would not be the case in case protest



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petition was not given either at the time of receiving 80% of the compensation or within the statutory period after passing the award. We make it clear that the order passed by the learned Single Judge would not enure to the benefits of those land owners who have not submitted application for reference while receiving 80% of the compensation or within the statutory period under Section 18 of the Land Acquisition Act. There is no liability to refer such cases to the Reference Court. The Land Acquisition Officer must verify each case independently to ascertain as to whether application for reference was made either at the time of receiving 80% of the compensation or within the outer time limit prescribed under Section 18 of the Land Acquisition Act.

11. We make the position clear that in matters relating to the acquisition by invoking the urgency clause under Section 17 of the Land Acquisition Act, the protest letter submitted while accepting 80% of the total compensation determined by the Land Acquisition Officer would meet the requirement of Section 18 of the Land Acquisition Act."

8. In the present case, the protest petitions filed by the petitioners is on 13.10.2006, 31.01.2017 and 10.05.2017 . Further, this Court, on the earlier occasion, observed that the Land Acquisition Officer has to refer the matter



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to the competent Civil Court under Section 18 of Act and the same is not followed by the respondents. Further, the stand of the respondents that the objections were given by the petitioners only on 16.10.2006 after the prescribed date and thus the same cannot be taken into consideration, is absolutely a perverse interpretation. When the provisions of the Land Acquisition Act are intended to protect the land losers and to ensure that they are given fair and reasonable compensation, such interpretation is to be deprecated.

9. In view of the order passed by the Hon'ble Division Bench as stated supra and considering the facts and circumstances of the case, this Court has to necessarily interfere with the impugned order passed by the third respondent dated 01.06.2017 and accordingly, this Court sets aside the impugned order dated 01.06.2017 passed by the third respondent and directs the 3rd respondent to refer the matter under Section 18 of the Act before the competent civil Court within a period of four weeks from the date of receipt of a copy of this order. Upon receipt of such petition, the learned Civil Judge shall pass appropriate orders for determination of compensation amount on merits and in accordance with law, within a period of twelve weeks, thereafter.



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Consequently, connected miscellaneous petition is also closed.

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Index: Yes/ No

Internet: Yes/No

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