



W.P.No.34633 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.34633 of 2022

1.Dr.G.Sundhar Krishnan

2.Dr.Kanthamani

.... Petitioners

-Vs-

1.The Principal Secretary to Government
Housing and Urban Development Department
Government of Tamil Nadu
Fort St.George, Chennai 600 009.

2.The District Collector
Kanchipuram District
Kanchipuram.

3.The Special Tahsildar (Land Acquisition)
MRTS Phase II Extension Project
Kanchipuram Unit, Thirumylai Railway
Station, Mylapore, Chennai 600 004.

4.The Tahsildar
Sholinganallur Taluk Office
Sholinganallur, Chennai.

5.The District Collector
Chennai District, Rajaji Salai
Chennai 600 001.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to refer the



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application of the petitioner dated 03.11.2021 seeking enhancement of compensation awarded under Award 3 of 2013 under Section 18 of the Land Acquisition Act, 1894.

For Petitioner : Mr.V.Raghavachari
for Mr.Jerry V.V.Sundar
For Respondents : Mr.R.Neelakandan
Additional Advocate General
Assisted by Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

The prayer sought for herein is for a Writ of Mandamus directing the respondents to refer the application of the petitioner dated 03.11.2021 seeking enhancement of compensation awarded under Award 3 of 2013 under Section 18 of the Land Acquisition Act, 1894.

2. Insofar as the acquisition of land belongs to the petitioner under the Land Acquisition Act, 1894, where urgency clause was invoked for public purpose, the petitioners had already filed a writ petition challenging the notification, and they became unsuccessful in both writ court as well as intra court appeal.

3. However, while disposing of the writ appeal filed by the petitioners, the Division Bench has given a set of directions, where inter alia the following



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direction is relevant for the present purpose.

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“ (iv) The appellants are granted six weeks' time from the date of receipt of the award to file a representation before the Collector, Chennai requesting for reference to the competent Court under Section 64 of Act 30 of 2013.”

4. Though such a direction was given to the respondents as well as the petitioners herein to make an application for reference and such application though has been made twice by the petitioner so far, reference under Section 64 of Act 30 of 2013 has not been made. In order to give a direction to the respondents to make a reference, the present writ petition has been moved.

5. Reiterating the above, Mr.V.Raghavachari learned counsel appearing for the petitioners would submit that, in fact the property was purchased recently, before acquisition, for a sale consideration of Rs.2 Crores and odd and the said transaction has been registered and therefore, if at all the acquisition is made that should be taken into account. However, the compensation now fixed is only Rs.64 Lakhs, which is far below the actual value of the property, which has been paid by the petitioners at the time of purchasing the land. Therefore, it became necessitated that this issue has to be necessarily referred under Section 64 of Act



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30 of 2013 and that has been taken into account by the Division Bench, while giving such direction referred to above. Therefore, absolutely there has been no reason to the respondents to refuse to make such a reference and hence a direction by way of mandamus is sought for in this writ petition, he contended.

6. Heard Mr.R.Neelakandan, learned Additional Advocate General appearing for the respondents, who would submit that in fact after the acquisition the compensation has been fixed and award has been passed in Award No.3/2013 dated 20.12.2013 ie., before the 2013 Act came into effect. Therefore, the question of making any reference under Section 64 of the Act 30 of 2013 does not arise. Hence, even though a direction was given to that effect by the Division Bench, that direction can be clarified because of the award had been passed before the Act 30 of 2013 came into effect.

7. I have considered the submissions made by the learned counsel appearing for both sides and have perused the materials placed on record.

8. As has been rightly pointed out by the learned counsel for the petitioners, the stand taken by the respondents that award had been passed prior to the 2013 Act, has been first introduced now by way of a communication to the petitioners and this issue has never been raised either before the writ



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court or writ appellate court by the respondents. Such kind of issue has been now brought in by the respondents that the award had been passed and therefore there is no need to make any reference under Section 64 of the Act 30 of 2013.

9. Assuming that the award had been passed prior to Act 30 of 2013 came into effect, had it been brought to the notice of the Division Bench, there might not have been any direction as stipulated in clause (iv) referred to above. Now the said clause (iv) still goods good and therefore the respondents cannot take any shelter or excuse to state that the award was passed prior to Act 30 of 2013 and hence the reference cannot be made.

10. In that view of the matter, since Clause (iv) of the order referred to above has to be followed by the respondents, this Court has no hesitation to hold that the direction as prayed for in this writ petition can be granted to refer the matter.

11. Accordingly, this Court is inclined to dispose of this writ petition with the following order:



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“That there shall be a direction to the 2nd respondent / District Collector concerned to make a reference in respect of the plea raised by the petitioners through their application dated 03.11.2021 in respect of the land acquired by the respondents for the enhancement of compensation awarded under Award 3 of 2013 originally under Section 18 of the Land Acquisition Act, 1894 and now presently under Section 64 of Act 30 of 2013, within a period of four weeks from the date of receipt of a copy of this order.”

12. With the above direction, this writ petition is disposed of. No costs.

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Index : Yes/No
Internet : Yes/No
KST

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To

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This writ petition has been listed under the caption 'for being mentioned' at the instance of the learned counsel appearing for the petitioners.

2. Mr.V.Raghavachari, learned Senior Counsel appearing for the petitioners would submit that in paragraph No.3 of the order, the words “*writ appeal filed by the petitioners*” has occurred. In fact, the writ appeal was filed by some third parties, of course, similarly placed like the petitioners. Therefore, the corrections has to be made.

3. Heard the learned Special Government Pleader appearing for the respondents also.

4. Since it is a correction which has to be made in order to put the facts right, I feel that in paragraph No.3 of the order dated 22.12.2022 in first line, instead of the words “*filed by the petitioners*”, the words “*filed by the similarly placed persons like the petitioners*” shall be added. Except



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this, order dated 22.12.2022 shall be unaltered.

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5. Registry is directed to issue the corrected order copy to the parties.

27.04.2023

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