



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P. (MD)No.9893 of 2009

and

M.P. (MD)Nos.1 and 2 of 2009

and

W.M.P. (MD)No.11740 of 2018

Periyasamy Gounder

... Petitioner

versus

1. The District Collector,
Dindigul District.

2. The Land Acquisition Officer and
Revenue Divisional Officer,
Palani, Dindigul District.

3. The Tahsildar,
Vedasandur Taluk,
Dindigul District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the proceedings and records of the Award No.2/2002/A2, dated 27.03.2002 in R.O.C.No.382/99/A2 on the file of the second respondent and the consequential notice dated 04.04.2008 on the file of the second respondent and quash the same as insofar as the petitioner is concerned illegal, invalid and exceeding jurisdiction and further and direct the respondents to withdraw the Land Acquisition Proceedings with respect to S.No.73/1 Boothipuram Village, Vedasanthur Taluk, Dindigul District.

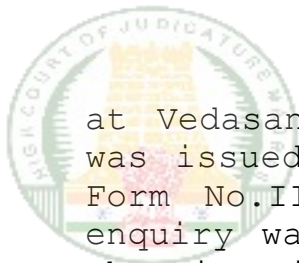
For Petitioner : Mr.H.Lakshmi Shankar

For Respondents : Mr.D.Gandhiraj,
Special Government Pleader

ORDER

This writ petition is filed as against the Award No.2/2002/A2, dated 27.03.2002 passed by the second respondent in R.O.C.No.382/99/A2.

2. The case of the petitioner is that his land in Survey No.73/1 situated at Boothipuram Village, Vedasanthur, was acquired by the respondents under Land Acquisition Act, 1984 (hereinafter referred to as "the Act"), for the purpose of constructing a dam



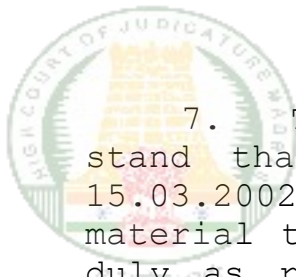
at Vedasanthur and a Notification under Section 4(1) of the Act was issued on 13.11.1998 and a general notice was also issued in Form No.III inviting objections on 08.04.1998. Thereafter, an enquiry was conducted under Section 5A of the Act on 09.06.1999, wherein, it was recorded that there was no objection received. Subsequently, 5A(2) proceedings was issued on 03.03.2000 and declaration was made under Section 6 of the Act on 16.03.2000. Thereafter, an Award was passed by the competent authority on 27.03.2002. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner submits that the award amount ought to be informed to the petitioner as per Section 12(2) of the Act, but, in this case, the notice under Section 12(2) of the Act, mentioning the award amount, was issued to the petitioner only on 04.04.2008, after a period of six years from the date of issuance of the award. He further submits that if 12(2) Notice was issued by the respondents in time, then, the petitioner is having right to make an objection on the award amount and if any objection is made by the petitioner, then, the District Collector has to refer the claim to the Civil Court under Section 18 of the Act. In this case, since the petitioner has received 12(2) notice belatedly, i.e. after a period of six years from the date of issuance of the award, the right of the petitioner, seeking enhanced award amount under Section 18 of the Act before the competent Civil Court, has been deprived.

4. The learned counsel appearing for the petitioner further submits that if the award amount has not been communicated to the petitioner properly under Section 12(2) of the Act, then, the award itself is lapsed. He further submits that considering the fact that the project is meant for water body, the petitioner has not raised any objection, when enquiry was conducted under Section 5A of the Act. In view of the belated notice issued under Section 12 (2) of the Act, the right of seeking enhancement of award has been deprived to the petitioner.

5. Considering the submissions made by the learned counsel for the petitioner, this Court sought clarifications from the learned Special Government Pleader as to why the Notice under Section 12 (2) of the Act was issued belatedly, ie. after a period of six years from the date of issuance of the Award.

6. The learned Special Government Pleader appearing for the respondents submits that the petitioner was aware of the Award amount on 15.03.2002 and a common award was passed for eight persons and except this petitioner, others have also received the award amount. However, the petitioner has not accepted the award amount and filed the writ petition before this Court.



7. Though the learned Special Government Pleader takes a stand that the petitioner was aware of the Award amount on 15.03.2002, the respondents are not in a position to produce any material that the award amount was communicated to the petitioner duly as required under Section 12(2) of the Act. Though this Court granted time on 27.04.2022, 21.04.2022 and 26.04.2022, even then, the respondents could not produce any materials that the award amount has been duly communicated to the petitioner.

8. I have considered the submission made by the learned counsel appearing on either side.

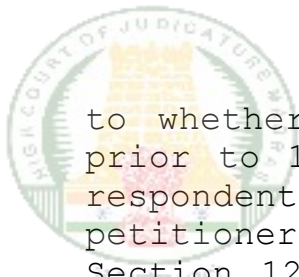
9. The petitioner's land was proposed to be acquired in the year 1998. Since the land of the petitioner comes under the water body, the Government has proposed to construct a dam at Vedasanthur. A Notice under Section 3A of the Act, fixing the date of enquiry under Section 5A of the Act was issued to the petitioner and to all other land owners. Thereafter, the enquiry under Section 5A of the Act was conducted on 09.06.1999. During the enquiry, the petitioner and other land owners have not raised any objection with regard to the acquisition proceedings. Accordingly, declaration was made under Section 6 of the Act on 16.03.2000. Thereafter, the award was also passed on 27.03.2002.

10. Though the petitioner has challenged the award itself by referring to the belated communication of Notice under Section 12 (2) of the Act, during the course of hearing, the learned counsel for the petitioner has confined his relief, seeking to refer the Award dated 27.03.2002 to the concerned Civil Court under Section 18 of the Act, for enhanced compensation amount, which has been deprived to the petitioner, since the notice under Section 12(2) of the Act was issued belatedly.

11. Section 12(2) of the Land Acquisition Act reads as follows:

"(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made."

12. As per Section 12 (2) of the Act, the District Collector, who is passing the award, has to communicate the award immediately to the concerned person interested. In this case, though the award was passed on 27.03.2002, the notice under Section 12(2) was issued only on 04.04.2008 belatedly, i.e. after the period of six year from the date of issuance of award. Immediately, the petitioner has also filed this writ petition in the year 2009. However, this writ petition is kept pending for the past 10 years. This Court also granted some time to the respondents to verify as



to whether any other communication was issued to the petitioner prior to 12(2) notice dated 04.04.2008. But, it is seen that the respondents have not issued any such communication to the petitioner. Therefore, this Court presumes that the notice under Section 12(2) of the Act was issued by the District Collector to the petitioner only on 04.04.2008 informing the award amount of Rs.6,903/-. The petitioner is having an objection that award amount passed by concerned authority is not adequate and it has not been proportionately calculated. Therefore, the petitioner is having right to seek enhanced compensation before the competent Civil Court.

13. In view of the above, the writ petition is partly allowed with a direction to the first respondent to refer the Award dated 27.03.2002, with respect to the petitioner's land, to the concerned Civil Court under Section 18 of the Land Acquisition Act, 1894. If any such award is referred by the first respondent, the concerned Civil Court shall take the matter, without insisting upon the limitation and to proceed with the same in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2022

Sub Assistant Registrar(CS)

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To

1. The District Collector,
Dindigul District.
2. The Land Acquisition Officer and
Revenue Divisional Officer,
Palani, Dindigul District.
3. The Tahsildar,
Vedasandur Taluk, Dindigul District.

+1 CC to M/s.H.LAKSHMI SHANKAR, Advocate (SR-22255[F] dated 28/04/2022)

+1 CC to M/s.SPL.GP (SR-23265[F] dated 02/05/2022)

W.P. (MD) No. 9893 of 2009

28.04.2022