



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WEB COPY

W.P. (MD)No.9895 of 2009
and
M.P. (MD)Ns.1 and 2 of 2009
and
W.M.P. (MD)No.11742 of 2018

1. Karupayee (died)
2. Muthulakshmi
3. Parameshwari
4. Tamizharasi
(Petitioners 2 to 4 are impleaded
as legal heirs of the deceased
sole petitioner vide order
dated 19.06.2008 in
W.M.P. (MD)No.11743 of 2018)

... Petitioners

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.2/98 dated 02.11.1998 in R.O.C.No.862/95 originally on the file of the Land Acquisition Officer and Special Tahsildar (LA) Nanganjiyar Reservoir Scheme Palani and presently with the 2nd respondent and the consequential notice dated 04.04.2008 on the file of the second respondent and quash the same as illegal insofar as the petitioner is concerned and further direct the respondents to withdraw the Land Acquisition Proceedings with respect to S.No.131/2, Boothipuram Village, Vedasanthur Taluk, Dindigul District.



For Petitioner : Mr.H.Lakshmi Shankar
For Respondents : Mr.D.Gandhiraj,
Special Government Pleader

ORDER

WEB COPY

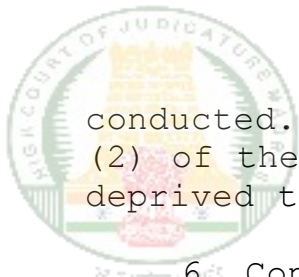
This writ petition is filed as against the Award No.2/98, dated 02.11.1998 passed by the second respondent in R.O.C.No.862/95.

2. This writ petition has been filed by one Karupayee in the year 2009. During the pendency of the writ petition, the first petitioner died on 12.05.2011, therefore, the legal heirs of the deceased first petitioner are impleaded as petitioners 2 to 3.

3. The land in Survey No.131/2 situated at Boothipuram Village, Vedasanthur, originally belonged to the petitioners' mother Karupayee and the same 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 11.10.1995. Thereafter, a draft declaration was made under Section 6 of the Act on 05.11.1996 and an Award was passed by the competent authority on 02.11.1998. Challenging the same, the present writ petition has been filed.

4. The learned counsel appearing for the petitioners submits that the award amount ought to be informed to the land owner, 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's mother only on 04.04.2008, after a period of nine 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 land owner is having right to make an objection on the award amount and if any objection is made by the land owner, then, the District Collector has to refer the claim to the Civil Court under Section 18 of the Act. In this case, since the notice under Section 12(2) of the Act was issued belatedly, i.e. after a period of nine years from the date of issuance of the award, the right of the petitioners, seeking enhanced award amount under Section 18 of the Act before the competent Civil Court, has been deprived.

5. The learned counsel appearing for the petitioners further submits that if the award amount has not been communicated to the land owner 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 mother of the petitioners had not raised any objection, when enquiry was



conducted. 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 petitioners.

6. Considering the submissions made by the learned counsel for the petitioners, 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 nine years from the date of issuance of the Award.

7. The learned Special Government Pleader appearing for the respondents submits that the mother of the petitioners was aware of the Award amount on 29.06.1998 and a common award was passed for eight persons and except the mother of the petitioners, others have also received the award amount. However, the mother of the petitioner has not accepted the award amount and filed the writ petition before this Court.

8. Though the learned Special Government Pleader takes a stand that the mother of the petitioners was aware of the Award amount on 29.06.1998, the respondents are not in a position to produce any material that the award amount was communicated to the mother of the petitioners 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 able produce any material that the award amount has been duly communicated to the mother of the petitioner.

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

10. The petitioners' mother land was proposed to be acquired in the year 1995. Since the said land comes under the water body, the Government has proposed to construct a dam at Vedasanthur. Thereafter, declaration under Section 6 of the Act was made on 05.11.1996 and award was also passed on 02.11.1998.

11. Though the award was challenged 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 petitioners has confined his relief, seeking to refer the Award dated 02.11.1998 to the concerned Civil Court under Section 18 of the Act, for enhanced compensation amount, which has been deprived to the mother of the petitioner, since the notice under Section 12 (2) of the Act was issued belatedly.

12. 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."

13. 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 02.11.1998, the notice under Section 12(2) was issued only on 04.04.2008 belatedly, i.e. after the period of nine years from the date of issuance of award. Immediately, the mother of the petitioners 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 mother of the petitioners only on 04.04.2008 informing the award amount of Rs.55,895/-. According to the petitioners, their mother is having an objection that the award amount passed by concerned authority is not adequate and it has not been proportionately calculated. Now, the land owner/mother of the petitioners 2 to 3 died. Therefore, the legal heirs of the first petitioner, namely, petitioners 2 to 3, are having right to seek enhanced compensation before the competent Civil Court.

14. In view of the above, the writ petition is partly allowed with a direction to the first respondent to refer the Award dated 02.11.1998, with respect to the petitioners' mother 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)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



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.

W.P. (MD) No. 9895 of 2009

28.04.2022

USK/27.06.2022/5P/4C