



W.P(MD)No.15519 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.12.2022**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.15519 of 2014

UdhumanGani,
S/o.Aboobackar,
Represented by his Power Agent.

... Petitioner

*(Cause title amended, vide Court order, dated 03.11.2022, in
W.M.P(MD)No.21351 of 2018 in W.P(MD)No.15519 of 2014)*

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Department of Land Administration,
Fort St. George, Chennai-9.

2.The Revenue Divisional Officer,
Ramnad.

3.The Special Tahsildar,
Land Acquisition, Ramnad.

4.Tamil Nadu Housing Board,
Represented by its Executive Engineer &
Administrative Officer,
Ramnad Unit Office,
Ramanathapuram District.

... Respondents



W.P(MD)No.15519 of 2014

(Respondent No.4 is impleaded, vide Court order, dated 03.11.2022, in W.M.P(MD)No.18873 of 2019 in W.P(MD)No.15519 of 2014)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the second respondent to send the matter for reference under Section 18 of the Act for the lands acquired in S.No.58/6B3, measuring 0.07.0 Hec. situated in Pattinamkathan Group Village, Ramnad Taluk and District as per the Award No.1/1997, dated 03.04.1997 to the Sub-Court, Ramnad.

For Petitioner : M/s.K.Vadivelu

For R-1 to R-3 : M/s.B.Saravanan
Additional Government Pleader

For R-4 : M/s.S.Sumesh
Standing Counsel

ORDER

The present Writ Petition has been filed for a Writ of Mandamus, directing the second respondent herein to refer the matter to civil Court for fixation of compensation under Section 18 of the Land Acquisition Act.



W.P(MD)No.15519 of 2014

2. According to the learned Counsel for the petitioner, the award was passed on 03.04.1997. During the award proceedings, the petitioners have participated therein and they have raised an objection with regard to the quantum of the award.

3. A perusal of the award indicates that the second respondent herein in his award, dated 03.04.1997, has specifically recorded that all the land owners have raised objection with regard to the quantum of compensation and he has also directed that the same may be referred under Section 18(1) of the Land Acquisition Act, 1984, to the Tribunal. Thereafter, the proceedings were not referred to the civil Court as directed in the award. The petitioner has been sending continuous representation for referring the matter to the competent civil Court under Section 18.

4. Since the request of the petitioner was not responded, the present writ petition has been filed for a Writ of Mandamus. The learned Additional Government Pleader appearing for the second respondent herein and the learned Standing Counsel appearing for the fourth



W.P(MD)No.15519 of 2014

respondent herein have contended that the compensation amount has been received by the writ petitioner / writ petitioner's wife without any protest. They have not filed any application before the second respondent herein for referring the matter under Section 18(1) of the Land Acquisition Act within a period of six weeks from the date of receipt of the award copy. Hence, when the application has not been filed within the period as stipulated under the Act, the question of referring the matter to the civil Court does not arise.

5. I have carefully considered the submissions made on either side.

6. It is not in dispute that the petitioner has suffered an award on 03.04.1997 and there is a specific reference in the award that the land owners have expressed that the quantum of award is very less and hence, the second respondent in his award itself has given a finding that the same may be referred to the competent civil Court under Section 18(1) of the Act.



W.P(MD)No.15519 of 2014

7. The Hon'ble Division Bench of this Court in a judgment reported in **2006 (1) MLJ page 252 (Steel Authority of India Limited, Salem Vs. Salam Urukalai Thittathal Nilam Ilanthor Sangam and Others)** in paragraph No.21 has held as follows:

"21. Having regard to this settled legal position laid down by the Apex Court as well as various High Courts it is clear that mere protest or expression of dissatisfaction to the award of compensation without there being anything in writing may be sufficient and that the authority concerned is under an obligation to refer the matter to the Court in accordance with Section 18(2) of the Act. In view of this legal position various categories as indicated hereinabove, expressing their protest and filing their applications for reference and some having not even received notices under Section 12(2) of the Act, cannot be denied the right to refer their cases to the Court under Section 18(2) of the Act, and therefore, we do not find any ground to interfere with the judgment of the learned Single Judge. Writ appeal is, therefore, dismissed with no order as to costs."

8. The said judgment has been followed by another Division Bench in W.A.No.1041 of 2016, dated 15.11.2018, in **Sahul Hameed Vs. The State of Tamil Nadu, Represented by its Secretary to**



W.P(MD)No.15519 of 2014

Government, Department of Land Administration, Fort St. George,

Chennai-600 009 and Others. Therefore, it is clear that a formal application need not be filed, protesting against the quantum of compensation. It is enough that the land owners have expressed their dissatisfaction with regard to the quantum of compensation or they receive the compensation with protest. In the present case, the land owners have chosen to raise their protest even during the award proceedings and the second respondent in his award has specifically recorded that the land owners have expressed their dissatisfaction with regard to the quantum of compensation. The second respondent in his award has also recorded that the issue should be referred to the competent civil Court. Hence, the contention of the Government as well as the Housing Board that no proper application has been filed within a period of six weeks from the date of award is not legally sustainable.

9. In view of the above said facts, the respondent authorities are directed to refer the matter under Section 18(1) to the competent civil Court or pass orders under Section 28(1) of the Land Acquisition Act by conferring the same compensation to the land owner / claimant.



W.P(MD)No.15519 of 2014

WEB COPY

10. With the above said observation, the writ petition stands allowed. There shall be no order as to costs.

01.12.2022

Index : Yes / No
Internet : Yes / No
btr

To

- 1.The Secretary to Government,
The State of Tamil Nadu,
Department of Land Administration,
Fort St. George, Chennai-9.
- 2.The Revenue Divisional Officer,
Ramnad.
- 3.The Special Tahsildar,
Land Acquisition, Ramnad.
- 4.The Executive Engineer & Administrative Officer,
Tamil Nadu Housing Board,
Ramnad Unit Office,
Ramanathapuram District.



WEB COPY



W.P(MD)No.15519 of 2014

R.VIJAYAKUMAR, J.

btr

Order made in
W.P(MD)No.15519 of 2014

01.12.2022