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W.P.No.1724 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.1724 of 2023

A.R.Velu

.... Petitioner

-Vs-

- 1 The District Collector
Salem District District Collectorate Salem.
- 2 Special District Revenue Officer
Chennai- Kanyakumari Industrial
Corridor Project 74 Vijaya Ragavan Street
Jagir Ammapalayam Salem.
- 3 Special Tahsildar (LA)
Chennai- Kanyakumari Industrial Corridor
Project Sankari Taluk.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the order dated 18.11.2022 received on 24.11.2022 passed by the 2nd respondent in Na.Ka. No.6/ 2018 / A4 / (SH- 86) thereby rejecting the application filed under Section 64 of the Land Acquisition Act (The Right to Fair Compensation and Tranparency in land Acquisition Rehabilitation and Re-Settlement Act 2013) quash the same and direct the 2nd respondent to refer the Award No. 108/ 2021 - 2021 in Na.Ka. No.355/ 2020 / A4 / (SH-86) dated 28.07.2022 to the principal District Judge Salem to decide the reasonablecompensation for acquisition of Petitioners land comprised in Old



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S.No. 148/ 1A New S.No. 148/ 1A3B situated at 47 Kasturipatti Village Sankari Taluk.

For Petitioner : Mr.T.L.Thirumalasamy
For Respondents : Mr.P.Sathish
Additional Government Pleader

ORDER

The prayer sought for herein is for a Writ of Certiorarified Mandamus to call for the records pertaining to the order dated 18.11.2022 received on 24.11.2022 passed by the 2nd respondent in Na.Ka. No.6/ 2018 / A4 / (SH- 86) thereby rejecting the application filed under Section 64 of the Land Acquisition Act (The Right to Fair Compensation and Tranparency in land Acquisition Rehabilitation and Re- Settlement Act 2013) quash the same and direct the 2nd respondent to refer the Award No. 108/ 2021 - 2021 in Na.Ka. No.355/ 2020 / A4 / (SH-86) dated 28.07.2022 to the principal District Judge Salem to decide the reasonable compensation for acquisition of Petitioners land comprised in Old S.No. 148/ 1A New S.No. 148/ 1A3B situated at 47 Kasturipatti Village Sankari Taluk.

2. The petitioner's land had been acquired for a road project and in order to get additional compensation or enhanced compensation, the petitioner has preferred the appeal and the said appeal has been rejected by the 3rd respondent through the order impugned dated 18.11.2022.



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3. Assailing the said order, the learned counsel for the petitioner would submit that, the only reason stated by the 3rd respondent in rejecting the appeal of the petitioner is that the petitioner has not filed the appeal within the time of limitation prescribed in this regard. However within the prescribed time the appeal has been since made, the said reason cannot stand and therefore on that ground the impugned order can be set aside and the matter has to be remitted back to the 3rd respondent.

4. Heard Mr.P.Sathish, learned Additional Government Pleader who would fairly submit that, the award was passed on 28.07.2022 and the petitioner has approached the authorities for enhancement by application dated 17.10.2022. Therefore, within six months period the appeal has been filed and the said reason now cited by the 3rd respondent in the order impugned would not stand. The impugned order has to be set aside and the matter can be remitted back to the 3rd respondent for reconsideration.

5. Considering the said submission made by the learned counsel for both sides and taking into account the factual matrix, where the award was passed on 28.07.2022 and the appeal was filed on 17.10.2022, therefore, within six months period since the appeal has been filed, the reason cited in the impugned order



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dated 18.11.2022 would not stand in the legal scrutiny. Therefore, this Court has no hesitation to hold that the impugned order has to be set aside. Accordingly, this Court is inclined to dispose of this writ petition with the following order.

- The impugned order dated 18.11.2022 is set aside and the matter is remitted back to the 3rd respondent for reconsideration.
- While reconsideration, the appeal filed by the petitioner shall be considered on merits and in accordance with law and orders shall be passed thereon at the earliest, preferably within a period of eight weeks from the date of receipt of a copy of this order.

6. With the above directions, this writ petition is disposed of. No costs.

24.01.2023

Index : Yes/No
Neutral Citation : Yes/No
Speaking Order / Non-speaking order
KST



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R. SURESH KUMAR, J.

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