



WEB COPY



WA No.2438 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WA No.2438 of 2023
and CMP No.18612 of 2023

Lalitha

.. Appellant

-VS-

1. The District Collector,
Krishnagiri.

2. The Land Acquisition Officer
-cum-Special Tahsildhar,
SIPCOT, Hosur, Krishnagiri.

.. Respondents

Prayer: Writ appeal filed under Clause 15 of the Letters Patent against the order of the learned Single Judge dated 25.01.2022 passed in W.P.No.26752 of 2019.

For the Appellant : Mr.Avinash Wadhwani
for M/s.V.Srimathi

For the Respondents : Mr.P.Muthukumar
State Government Pleader

* * * * *



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JUDGMENT

(Delivered by the Hon'ble Chief Justice)

We have heard Mr.Avinash Wadhwani, learned counsel for the appellant.

2. The present appellant has filed the writ petition bearing No.26752 of 2019 seeking directions against the respondents to refer the matter under Section 8 of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (Tamil Nadu Act 10 of 1999).

3. The land of the appellant/writ petitioner was acquired. An award came to be passed on 16.03.2007. The notice of award was served on the appellant. The appellant challenged the said award by filing W.P.No.22741 of 2008. The said writ petition, it appears, is dismissed on 16.07.2019. The appellant thereafter filed the instant writ petition seeking reference for enhancement of compensation. The said writ petition is dismissed.



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4. The learned counsel for the appellant submits that the appellant was challenging the acquisition proceedings by filing a writ petition. When the challenge to the passing of the award in the acquisition proceedings itself was pending consideration before the Court, the appellant could not have filed an application seeking reference for enhancement of compensation. The appellant could not have prosecuted both one at the same time. It is further submitted that service of notice of award was in the name of a dead person. In view of that, the appellant did not have a constructive knowledge of the award. The learned counsel relies upon the following judgments:-

- a) Raja Harish Chandra Raj Singh vs. Dy. Land Acquisition Officer, (1962) 1 SCR 676;*
- b) Madan vs. State of Maharashtra, (2014) 2 SCC 720;*
- c) H.V.Byrappa vs. The Special Tahsildar (LA) and The District Collector, MANU/TN/0175/2010;*
- d) Lakshmanan and another vs. The District Collector, MANU/TN/ 5426/2018; and*
- e) Vijay Mahadeorao vs. State of Maharashtra, (2018) 8 SCC 266.*

5. We have heard Mr.P.Muthukumar, learned State Government Pleader, for the respondents.



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6. In the case of **Raja Harish** (supra), the Court was considering about the period within which the reference has to be made and the contents of the application under Section 18 of the Land Acquisition Act, 1894. The Apex Court observed that the date of the award cannot be determined solely by reference to the time when the award is signed by the Collector or delivered by him in his office. It must also involve the consideration of the question as to when it was known to the party concerned either actually or constructively. In the present case, the appellant was aware of the award as the appellant, by filing a writ petition in the year 2008, had challenged the said acquisition proceedings.

7. In the case of **Madan** (supra), the Court observed that there is a reference pending under Section 30 of the Land Acquisition Act, that after the reference under Section 30 of the Land Acquisition Act was decided, the petitioner got the knowledge that he is entitled for compensation and quantum thereof, as such, he filed a reference under Section 18 within six weeks from the date of the order under



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Section 30. In the present case, there was no dispute of the entitlement of compensation by the appellant. No other person had disputed the right of the appellant to get the compensation amount.

8. In the case of **H.V.Byrappa**, it was observed by a learned Single Judge of this Court that the Collector in the said case had agreed to refer the issue to the Sub Court and the same was also stated in the award itself. In the present case, there is no such statement in the award. Similarly, in the case of **Lakshmanan** (supra), the Collector had agreed to refer the matter to the Reference Court. It is on that basis that the learned Single Judge directed to refer the matter to the Reference Court.

9. In the case of **Vijay Mahadeorao Kubade** (supra), the Apex Court observed that the notice under Section 12(2) of the Land Acquisition Act was not accompanied by a copy of the award, as such, it is only after the appellant received the certified copy of the award on 03.02.1988, there would be a valid notice of the award. In the present case, such circumstance has not arisen. The appellant was



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aware of the award. In fact, the appellant had challenged the said acquisition proceedings by filing W.P.No.22741 of 2008 and the challenge is also negated.

10. In light of the above, it would not be proper to accept the contention of the appellant to refer the matter to the Sub Court for higher compensation after a long slumber of 22 years.

The writ appeal as such is dismissed. There will be no order as to costs. Consequently, connected miscellaneous petition is closed.

(S.V.G., CJ.)

(D.B.C., J.)

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Index : Yes/No

Neutral Citation : Yes/No

sra



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