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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 07.07.2023

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CONTEMPT PETITION NO. 177 of 2023

V.Srinivasan

.. Petitioner

- Vs -

1. V.Arivudai Nambi

The Revenue Divisional Officer
Taluk Office Complex, 1st Floor,
GST Road, Opposite MEPZ, Tambaram West,
Chennai-600 045.

2. Sai Varthini

The Revenue Divisional Officer,
Revenue Divisional Office,
South Chennai Zone, Guindy,
Chennai-600 032.

.. Respondents

Contempt Petition filed under Section 11 of the Contempt of Courts
Act to punish the respondent for wilful disobedience of the order passed by
this Court in W.P. No.6037 of 2022 dated 17.03.2022.



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For Petitioner : M/s.B.Ram Prasath

For Respondents : Mr.G.Ravindran,
Additional Advocate General
assisted by
Mr.P.Aishwarya for R1 & R2.

: Mr.A.Ramesh,
for Chennai Airport
R3 in W.P.No.6037 of 2022

ORDER

This Contempt Petition has been filed by the petitioner praying this Court to punish the respondents for wilful disobedience of the order passed by this Court in W.P. No.6037 of 2022 dated 17.03.2022.

2. This Court vide order dated 17.03.2022 issued a direction to the 1st respondent to consider the petitioner's representation seeking compensation towards land acquisition for expansion of chennai Airport and pass orders on the same. Since, the said order has not been complied with by the respondent, the petitioner has filed the present contempt petition.

3. Learned counsel for the petitioner submits that despite the order passed by this Court, no steps have been taken by the respondents to



disburse the compensation amount to the petitioner and the award copy has also not been served either on the petitioner or his mother.

4. Learned Additional Government appearing for the contemnors/respondents submits that though the award was passed in the year 2002, however, till date the award amount has not been deposited in compliance of the order passed by this Court and in terms of Land Acquisition Act. Learned Counsel for the respondents submits that award was passed in the year 2002 itself. Pursuant to the order and the filing of the contempt, the amount has been disbursed to the petitioner by way of cheque only on 19.06.2023.

5. Learned Additional Government Pleader fairly conceded that the award copy was not served on the petitioner mother as she has not appeared in the award enquiry, therefore the respondents were not able to serve the award copy on the petitioner's mother in terms of Section 12(2) of the Act. Since, in the present case, the procedure contemplated under Section 12(2) of the Act has not been followed, this Court may issue a direction to the Land Acquisition Officer to refer the matter under Section



18(1) of the Act so as to enable to the petitioner to get higher compensation.

Accordingly, he prays for appropriate orders.

6. Learned counsel appearing for the Airport's Authority submits that similarly situated persons whose lands were acquired, reference was made under Section 18(1) of the Act, pursuant to which, an award came to be passed, against which, appeal has been preferred and the same is pending consideration.

7. This Court heard the learned Additional Advocate General appearing for the respondents and learned counsel appearing for the Airport's Authority.

8. From the materials available on record, as also the submission of the learned Addl. Advocate General, it transpires that the mother of the petitioner did not appear for the award enquiry, but nonetheless award has come to be passed. However, subsequent to the passing of the award, neither the award was communicated to the petitioner so as to enable the petitioner to seek for enhanced compensation nor the compensation amount has been paid to the petitioner's mother. Since the passing of the award in



the year 2002, the petitioner's mother had been running from pillar to post to relish the compensation for the lands acquired.

9. In this connection, it is necessary for this Court to look at Section 12 (2) of the Land Acquisition Act, which prescribes as to when the award of the Collector becomes final and the manner in which the said award has to be communicated. For better appreciation, the same is quoted hereunder:-

“12. Award of Collector when to be final:- (1) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested.

(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.”

10. From the above, it is clear that once the award is passed by the Land Acquisition Officer, it has to be filed at the office of the Collector and it becomes final and conclusive between the Collector and the persons



interested, whether the said interested persons appeared for the award enquiry or not. Further, sub-section (2) to Section 12 prescribes that upon the filing of the said award, the Collector shall give immediate notice of the award to the persons interested, who had not appeared for the award enquiry so as to enable them to seek enhancement of compensation under Section 18 of the Act, if they so desire.

11. In the case on hand, it is the submission of the learned Addl. Advocate General that the petitioner's mother was not present at the award enquiry and, therefore, she was not aware of the award. It is the further submission of the learned Addl. Government Pleader that the copy of the award was not served on the mother of the petitioner as mandated u/s 12 (2).

12. It is to be pointed out that it is not mandatory for the person interested to be present at the award enquiry; rather it is mandatory for the acquisitioning body to serve a copy of the award on the person interested, which alone would enable the person interested to seek for enhancement u/s 18 (1) of the Land Acquisition Act, if the person interested is not satisfied with the compensation awarded.



13. Further, Section 18 relates to reference to Court for the purpose of the landloser seeking enhancement, Sub-section (1) to Section 18 prescribes that such of the persons interested, who are not in acceptance of the award, may, by filing a written application to the Collector, require the matter to be referred by the compensation payable or the measurement of the land or even apportionment of compensation among the persons interested.

14. Sub-section (2) to Section 18 prescribes the time within which such reference should be sought for and in respect of the persons who were present at the time of the award enquiry, it is within six weeks of the award and in respect of persons, who were not present at the award enquiry, it shall be six weeks from the date of receipt of the notice. Therefore, for the persons, who were not present at the award enquiry, for the purpose of seeking enhancement u/s 18(1), it is necessary that they should be informed of the award by providing them with the notice, whereinafter alone, such persons would be able to seek for enhancement of compensation u/s 18(1) of the Act.

15. In the case on hand, it is the admitted by the respondents that



pursuant to the award enquiry, the copy of the award was not communicated to the petitioner's mother. Further, the compensation awarded has also not been disbursed to the petitioner's mother till date, which would have made them aware that award has been passed and then it would be upto the petitioner's mother to seek for enhancement. However, the non-communication of the award even after passage of such a long time had disabled the petitioner's mother to seek appropriate remedy, which alone had prompted the petitioner to file the writ petition.

16. Even the writ petition was filed only for a direction to the respondents to consider the representation of the petitioner and disburse the amount, in respect of the acquisition of the lands of the petitioner's mother. The compensation has not been disbursed by the respondent inspite of the award having been passed long back. Only after the filing of the present contempt petition, the amount has been disbursed to the petitioner by way of cheque on 19.6.2023.

17. It is to be pointed out that it has become a routine affair for the authorities to sleep over the orders passed by this Court without complying with the directions and only when the Court is knocked with an action for



contempt, the authorities plead for time and, thereafter, try to comply with the orders. In the case on hand, the same fate has befallen where after filing of the contempt, the amount has been disbursed to the petitioner by way of cheque on 19.6.2023. In fact, the order in the writ petition was only to the limited extent of considering the representation of the petitioner seeking compensation towards the land acquired for expansion of the Chennai Airport. Even such orders are being complied with only when action for contempt is initiated. This reveals a very sorry state of affairs insofar as the executive are concerned, who have scant respect for the orders of this Court.

18. Be that as it may. The lamenting of this Court would not in any way be of any benefit to the petitioner. Unless the copy of the award is served on the petitioner, the petitioner would not be in a position to seek for enhancement by resorting to Section 18 (1) of the Land Acquisition Act. In the present case, as the award copy has not been provided to the petitioner, it would be an exercise in futility at this point of time to ask the petitioner to go before the appropriate jurisdictional court for enhancement.

19. In such view of the matter, to render substantial justice, invoking



the extraordinary powers vested in this Court, this Court directs the Land Acquisition Officer to refer the matter to the competent Civil Court u/s 18 (1) of the Land Acquisition Act for the purpose of determining the enhanced compensation. Such reference shall be made within a period of eight weeks from the date of receipt of a copy of this order. On receipt of the said reference, the concerned court before which the said reference is made is directed to take up the reference and complete the trial within a period of six months thereafter.

20. With the aforesaid observations and directions, as the compensation amount has been paid, this contempt petition is closed.

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