



Order dated 11.10.2023
in W.P.No.28507 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11.10.2023

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.28507 of 2023

--

Mrs.Dhanalakshmi

.. Petitioner

Vs.

1. The District Collector,
Chennai District, Chennai-600 001.

2. The Revenue Divisional Officer,
Chennai District.

3. The Tahsildar and Land Acquisition Officer,
Office of Tahsildar,
Purasaiwakkam-Perambur Taluk,
Chennai-600 001.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the first respondent to consider the petitioner's representation dated 04.04.2022 and grant the petitioner the award amount passed by the third respondent.

For petitioner : Mr.A.P.Sathyamurthy

For respondents : Mr.V.Veluchamy, Addl.G.P.



Order dated 11.10.2023
in W.P.No.28507 of 2023

WEB COPY

ORDER

The petitioner has filed the Writ Petition praying for issuance of a Writ of Mandamus to direct the first respondent to consider the petitioner's representation dated 04.04.2022 and grant the petitioner the award amount passed by the third respondent.

2. Briefly stated facts are as under:

(a) The property measuring a larger extent of land situated in Chennai District, Konnur Village, Block No.52, Survey No.28, T.S.No.28, New Sub-Division 28/2, 29/2, originally belonged to the petitioner's grand-mother Jagadambal, which has also been entered into the Revenue/Government records. The said Jagadambal executed a Will bequeathing the property in favour of the petitioner and the petitioner's brothers Sankar and Mukesh @ Murugavel. The petitioner and her brothers (named above) have filed a Civil Suit before this Court in C.S.No.302 of 2012 for partition of the property as per the terms of the Will, which was probated by this Court, which was confirmed by the Division Bench of this Court in O.S.A.No.74 of 2003 on 01.11.2010.

(b) Pending the above said suit, the petitioner and her brothers named above, entered into a compromise, which was reduced into writing, based on which a Compromise Deed was executed by the petitioner and her brothers

Page No.2/12



Order dated 11.10.2023
in W.P.No.28507 of 2023

named above, which has been filed before the Court in the said C.S.No.302 of 2012, based upon which, preliminary decree was granted in the said Civil Suit on 12.12.2017.

(c) The State Government initiated land acquisition proceedings to acquire the land including that of the petitioner and her brothers for public purpose, for preparing formation of Villivakkam Railway Subway for vehicles flow schedule in Villivakkam, and the said land was acquired by them. The third respondent issued notice to one of the land owner H.Sankar on 27.06.2008, during which time, there was dispute among the petitioner and her brothers and hence, the petitioner and her brothers could not give any statement in writing about the claim over the acquired property. After discussion and compromise talk by the family well-wishers and elders, all the three (petitioner and her two brothers) forgetting the difference between the petitioner and her two brothers, entered into a compromise and the respective shares of the petitioner and her two brothers were allotted as per the compromise memo.

(d) It came to be known to the petitioner that the land acquisition officer, being the third respondent herein, had passed Award in respect of the land in question, but till date, the same had not been received by the petitioner.

(e) In order to claim the amount, the petitioner sent a representation dated 04.04.2022 to the first respondent, which was received on 08.04.2022, and



Order dated 11.10.2023
in W.P.No.28507 of 2023

after receipt of the said representation, no action had been taken, inspite of the petitioner having followed up the matter. Hence, the petitioner has filed the present Writ Petition for the relief stated supra.

3. The third respondent-Tahsildar and Land Acquisition Officer has filed a status report, dated 11.10.2023, brief of which is stated hereinbelow:

(i) The petitioner's grand-mother Tmt.Jagadambal was the original land owner of the land bearing T.S.No.28/2, Block No.52 of Konnur Village and that a portion of the said land measuring 1518 Sq.Ft. was acquired by the Tahsildar and Land Acquisition Officer, Erstwhile Purasawalkkam-Perambur Taluk in Award No.1 of 2010 (A2/27384/2010), dated 09.06.2010 for the purpose of construction of under-ground bridge near Villivakkam Railway Station to facilitate quick flow of traffic near the Redhills Road.

(ii) On a perusal of records, the Tahsildar submitted that the following extent of lands were acquired in Award No.1 of 2010 for public purpose for formation of Villivakkam Railway sub-way for free flow of vehicles:

<i>Village</i>	<i>Block No.</i>	<i>T.S.No.</i>	<i>Extent in Hec.Ares.Sq.Mts.</i>	<i>Extent in Ground Sq.Feet</i>
Konnur	49	77/2	00 00 35.0	00 0377
Konnur	49	78/2	00 00 07.5	00 0081
Konnur	49	79/2	00 00 19.0	00 0205



Order dated 11.10.2023
in W.P.No.28507 of 2023

<i>Village</i>	<i>Block No.</i>	<i>T.S.No.</i>	<i>Extent in Hec.Ares.Sq.Mts.</i>	<i>Extent in Ground Sq.Feet</i>
Konnur	49	80/2	00 00 91.5	00 0985
Konnur	49	81/2	00 01 30.5	00 1405
Konnur	52	27/2	00 00 49.0	00 0527
Konnur	52	28/2	00 01 41.0	00 1518
Konnur	52	29/2	00 01 22.0	00 1313
Konnur	52	163/3	00 01 62.0	00 1744
Total			00 007 57.5	03 0954

(iii) After verification of the Town Survey Land Records and inspection, the Notification under Section 4(1) of the Land Acquisition Act was approved by the Government in G.O.(Ms).No.92, Municipal Administration and Water Supply (MC1) Department, dated 22.05.2008 and the Notification was published in the Tamil Nadu Government Gazette Extraordinary in Part-II Section 2, in No.160, dated 26.05.2008. The publication was also made in two local dailies "The Deccan Chronicle" and "Daily Thanthi" on 01.06.2008 and the substance of the Notification was also published in the locality. In view of the said land acquired under urgency clause under sub-section (2) of Section 17 of the Act, the enquiry under Section 5-A did not apply in the said case.

(iv) The Draft Declaration under Section 6 of the Land Acquisition Act was approved in G.O.Ms.No.103, Municipal Administration and Water Supply (MC1) Department, dated 04.06.2008. The said Declaration was also published in the



Order dated 11.10.2023
in W.P.No.28507 of 2023

Tamil Nadu Government Gazette Extraordinary in Part-II Section 2 in No.173, dated 04.06.2008. The publication was made in two local dailies "The Deccan Chronicle" and "Daily Thanthi" on 07.06.2008. The substance of the declaration was also published in the locality on 10.06.2008. The said Notification was followed by the Draft direction under Section 7 of the Land Acquisition Act and the Tahsildar, Erstwhile Purasawalkam-Perambur Taluk was appointed to perform the functions of the Land Acquisition Officer under Section 39(1) of the Land Acquisition Act. The market value of the said land was fixed as Rs.449/- per Sq.Foot after considering all the sales of vacant lands that had taken place in the vicinity to the case lands.

(v) The land measuring an extent of 1518 Sq.Feet and comprised in T.S.No.28/2 of Block No.52 of Konnur Village stood registered in the name of Smt.Jagadambal. Thiru.C.S.Nandakumar, S/o C.S.Sampath Kumar who attended the Award enquiry, had given his consent for acquisition of the said piece of land and handed over possession of the land on 13.08.2008.

(vi) While passing of the Award, it was brought to the notice of the Land Acquisition Officer that there was a Court case pending on the ownership of the aforesaid property between the legatees -- C.S.Devakumar, C.S.Sethukumar, C.S.Nandakumar in O.S.No.74 of 2003 and hence, the Land Acquisition Officer could not determine the apportionment of the compensation among the



Order dated 11.10.2023
in W.P.No.28507 of 2023

WEB COPY

legatees, had ordered to deposit the compensation amount of Rs.12,18,777/-.

(vii) Besides the petitioner and her brother, one C.S.Nandakumar is also claiming proportionate share in the aforesaid compensation amount. The said C.S.Nandakumar claims that the said Jagadambal is his grand-mother and that the said Jagadambal being the grand-mother of the petitioner, had bequeathed the aforesaid property in her Will in his favour. The petitioner and her two brothers, namely Sankar and Mukesh @ Murugavel also claim that the said property has been bequeathed in their favour. All of them had filed C.S.No.302 of 2012 before this Court for partition of the property as per the terms of the said Will and that the Will was probated by this Court. During the pendency of the said Will, the petitioner and her brothers had entered into a compromise decree and the same was reduced into writing and based on the said compromise, a Deed of Compromise was executed by all of them before the Court and C.S.No.302 of 2012 was decreed accordingly.

(viii) The said C.S.Nandakumar is also claiming to be one among the legatees of the said Will left by the testatrix. As there was a dispute among the beneficiaries of the Will, the compensation for the acquired land was not paid and the same was kept in abeyance by the Tahsildar and Land Acquisition Officer and the same was not released to the legatees.

(ix) The said C.S.Nandakumar claims that this Court had delivered a



Order dated 11.10.2023
in W.P.No.28507 of 2023

judgment and decree on 20.02.2017 in C.S.No.29 of 2012 and Application Nos.957 of 2014 and 3884 and 3885 of 2016, wherein the petitioner has been declared as one of the beneficiaries of the land comprising 1518 Sq.Feet. as per the probated Will.

(x) The acquisition in the case on hand was made in the year 2010 by the then Tahsildar of erstwhile Purasawalkam-Perambur Taluk. Subsequently, consequent to the bifurcation/trifurcation of the Taluk Offices in Chennai District, the said Konnur Village had been attached with the newly formed Ayanavaram Taluk with effect from 12.02.2014. Hence, the third respondent's office is unable to trace the records and the records pertaining to the deposit of the amount into the Court, as there is a dispute in the claim for compensation.

(xi) The petitioner claims to have submitted a representation dated 04.04.2022 and the Tahsildar has stated in this status report that she will trace out the records and make arrangements to pay the compensation to the petitioner.

4. The learned Additional Government Pleader appearing for the respondents submitted that there are six more claims and one of the claimant had filed a Writ Petition in W.P.No.2770 of 2020, which was disposed of by this Court on 10.01.2022 directing to consider the representation and pass orders.



Order dated 11.10.2023
in W.P.No.28507 of 2023

WEB COPY

Thereafter, notice was issued to him and he has not appeared and has not co-operated for the disposal. Further, there is a civil suit filed before this Court in C.S.No.302 of 2012 by the petitioner's brothers, seeking for the relief of partition and separate possession of 1/3 share each of the plaintiffs in the suit schedule property -1 therein, for the accounts by the defendants 1 and 2 and for mesne profits. The Court passed a preliminary decree on 12.12.2017 in the said civil suit for partition and separate possession of the 2/3 share of the brothers of the petitioner herein and for accounts against the third defendant therein, who is the executor of the Will and the plaintiffs (brothers of the petitioner herein) will be entitled to mesne profits and that the fifth defendant-Muthuraj was restrained to permanent injunction by paying rent to the defendants 1 and 2 therein.

5. Heard both sides and perused the materials available on record.

6. The respondents have not denied regarding acquisition and also the Award amount. According to the respondents, there are several claims, but however, the grievance of the petitioner is that she had made a representation on 04.04.2022 to the first respondent, and so far, the first respondent had not considered the said representation.

Page No.9/12



Order dated 11.10.2023
in W.P.No.28507 of 2023

WEB COPY

7. Be that as it may. Taking into consideration the facts and circumstances, this Court, without going into the merits of the matter, and also considering the limited scope of the prayer made in this Writ Petition, directs the first respondent to consider the said representation, dated 04.04.2022 of the petitioner and pass appropriate orders on merits and in accordance with law, and if the first respondent finds merits on the said representation and if otherwise the petitioner is eligible to get the relief sought for in the said representation and if she is eligible under the said Award, dispose of the said representation on merits and in accordance with law, if the petitioner is entitled to the relief sought for in the said representation. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner made in this Writ Petition and it is for the respondents to decide the same at the time of disposing of the said representation on merits and in accordance with law.

8. The said representation, dated 04.04.2022 of the petitioner shall be disposed of on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order, or on production of a web-copy of this order, whichever is earlier.

Page No.10/12



Order dated 11.10.2023
in W.P.No.28507 of 2023

9. With the above directions, this Writ Petition is disposed of. There shall be no order as to costs.

11.10.2023

Index: Yes/no
Speaking Order: Yes/no
Neutral Citation: Yes/no

CS

To

1. The District Collector,
Chennai District, Chennai-600 001.
2. The Revenue Divisional Officer,
Chennai District.
3. The Tahsildar and Land Acquisition Officer,
Office of Tahsildar,
Purasaiwakkam-Perambur Taluk,
Chennai-600 001.



WEB COPY



Order dated 11.10.2023
in W.P.No.28507 of 2023

P. VELMURUGAN, J

CS

W.P.No.28507 of 2023

11.10.2023