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W.P. Nos.25874 and 25891 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2023

Coram :

THE HONOURABLE MR. JUSTICE P. VELMURUGAN

Writ Petition Nos. 25874 and 25891 of 2018 and
W.M.P. No. 30074 of 2018

Mrs. Thangammal

... Petitioner in both WPs

Versus

1. The Director of Municipal Administration and
Water Supply Department
Secretariat, Chennai - 600 009
2. The District Collector
Chennai District
Singaravelan Maaligai
First Line Beach, Chennai
3. The Tahsildar (Land Acquisition Officer)
Fort Tondiarpet Taluk, Chennai - 600 081
4. The Commissioner
Corporation of Chennai,
Rippon Building, Park Town
Chennai - 600 003

... Respondents in both Wps.

Prayer in W.P. No.25874/2018: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the respondents culminating in Award No.2 of 2009, dated



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15.12.2009, passed under Section 11 of the Land Acquisition Act, 1894, quash the same insofar as the determination of the compensation amount is concerned in respect of lands of the petitioner measuring 524 sq.ft. (out of the total extent measuring 3959 sq.ft) together with building comprising ground and first floor bearing Corporation Door No.70. Old Door No.18, Kathivakkam High Road, Korukkupet, Chennai - 600 081, comprised in Block No.33, R.S. Nos. 1853/2 & 1854/5, situated at Tondiarpet Village and direct the respondents to determine the compensation afresh in accordance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, within a time limit that may be fixed by this Court.

Prayer in W.P.No.25891/2018: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the respondents culminating in the 3rd respondent's order Ref.No.R.O.C.No.A10/17481/2007, dated 30.01.2018, purporting to reject the petitioner's representation dated 02.09.2018, quash the same insofar as the petitioner is concerned and direct the respondents to pay enhanced compensation to the petitioner for acquiring her lands measuring 524 sq.ft. out of the total extent measuring 3959 sq.ft., together with building comprising ground and first floor bearing Corporation Door No.70. Old Door No.18, Kathivakkam High Road, Korukkupet, Chennai - 600081, comprised in Block No.33, R.S.Nos.1853/2 & 1854/5, measuring 3959 sq.ft., situated at Tondiarpet Village, vide Award No.2 of 2009 dated 15.12.2009 on par with the compensation fixed in respect of lands acquired from Jeevarathinam,



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which was also acquired for the very same purpose vide the very same Award No.2 of 2009 dated 15.12.2009, within a time limit that may be fixed by this Court.

In both WPs.,

For Petitioners : Mr. B. Harikrishnan

For R1 to R3 : Mr. V. Veluchamy
Additional Government Pleader

For R4 : Mr. G.T. Subramanian
Standing Counsel for Corporation of Chennai

COMMON ORDER

W.P. No.25874 of 2018 is filed seeking to issue a Writ of Certiorarified Mandamus to call for the records of the respondents culminating in Award No.2 of 2009, dated 15.12.2009, passed under Section 11 of the Land Acquisition Act, 1894, quash the same insofar as the determination of the compensation amount is concerned in respect of the petitioner's lands measuring 524 sq.ft. (out of the total extent measuring 3959 sq.ft) together with building comprising ground and first floor bearing Corporation Door No.70. Old Door No.18, Kathivakkam High Road, Korukkupet, Chennai - 600 081, comprised in Block No.33, R.S. Nos.1853/2 & 1854/5, situated at



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Tondiarpet Village, and direct the respondents to determine the compensation afresh in accordance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, within a time limit that may be fixed by this Court.

2. W.P.No.25891 of 2018 is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the respondents culminating in the 3rd respondent's order Ref.No.R.O.C.No.A10/17481/2007, dated 30.01.2018, purporting to reject the petitioner's representation dated 02.09.2018, quash the same insofar as the petitioner is concerned and direct the respondents to pay enhanced compensation to the petitioner for acquiring her lands measuring 524 sq.ft. out of the total extent measuring 3959 sq.ft., together with building comprising ground and first floor bearing Corporation Door No.70. Old Door No.18, Kathivakkam High Road, Korukkupet, Chennai - 600 081, comprised in Block No.33, R.S. Nos.1853/2 & 1854/5, measuring 3959 sq.t., situated at Tondiarpet Village, vide Award No.2 of 2009 dated 15.12.2009 on par with the compensation fixed in respect of lands acquired from Jeevatrathinam, which was also acquired for the very same purpose, vide the very same Award No.2 of 2009 dated 15.12.2009, within a time limit that may be fixed by this



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3. The learned counsel for the petitioner submitted that for the purpose of acquiring the private lands, notification under Section 4 (1) of the Land Acquisition Act (for brevity the 'Act') was issued and subsequently, declaration was made under Section 6 of the Act. One Jeevarathinam and Usha who are the adjacent land owners of the petitioner, challenged the declaration and pending the same, Award was also passed. Subsequently, the declaration notification was quashed and the acquisition officers entered into a private negotiation with the said Jeevarathinam and Usha and paid compensation to them, which was more than the Award passed. Since the declaration was quashed, the Award itself is not valid. Since the other land owners were considered for higher compensation under the guise of private negotiation, the petitioner made a representation dated 02.09.2015 and subsequently approached this Court vide WP.No.37028 of 2015 for higher compensation as fixed in the case of Tmt.Jeevarathinam and this Court by order dated 25.11.2015, directed the authority to consider her representation. Since it was not complied with, the petitioner filed a contempt petition in Cont. P. No.51 of 2018 and the same was subsequently closed on 09.04.2018 since the learned Additional Government Pleader submitted that the directions of this Court dated 25.11.2015 was complied with and order has been passed by the



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respondent on 30.01.2018 itself. However, in the said order, the acquisition Officer rejected the claim of the petitioner stating that the petitioner had not filed any application/claim petition under Section 18 of the Act for enhancement of compensation. The learned counsel further submitted that the acquisition officer considered the representation of two other land owners by way of private negotiation and fixed the compensation more than the amount fixed in the Award. However, the same benefit was denied to the petitioner. Therefore, the petitioner has filed the present writ petitions challenging the impugned order passed by the 3rd respondent and also for enhancement of compensation under the new Act.

4. The learned Additional Government Pleader appearing for the acquisition body submitted that the said Jeevarathinam challenged the declaration and also appeared for private negotiation and thereafter, the acquisition body awarded the compensation. Whereas the writ petitioner neither challenged the declaration nor filed any application for enhancement of compensation and that she had also not appeared for private negotiation. Therefore, there is no perversity in the impugned order passed by the 3rd respondent. The learned Additional Government Pleader further submitted that this Court may direct the petitioner to appear before the acquisition body



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for private negotiation and they will consider the same. However, he submitted that since the compensation amount has already been deposited, the petitioner is not entitled for compensation under the new Act.

5. Heard and perused the materials available on record.

6. Admittedly, the petitioner's land was acquired after issuing notification under Section 4(1) and thereafter, Declaration under Section 6 was made. The said Declaration was quashed by this Court at the instance of one of the other land owners Jeevarathinam and Usha. In the mean time, the Award came to be passed and therefore, the Award has no sanctity. Already two other land owners have entered into private negotiation and thereafter, compensation has been awarded to them, which is more than the amount fixed in the so called invalid award. The petitioner's land has also been acquired and she is also covered under the said declaration and Award.

7. Once the declaration was challenged and quashed, the Award passed by the acquisitioning body is not valid. Therefore, the petitioner is also entitled to get the compensation on par with the adjacent land owners.



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8. Therefore, the impugned order in Ref.No.R.O.C.No.A10/17481/2007, dated 30.01.2018, passed by the 3rd respondents is set aside. The respondents are directed to calculate the amount as paid to the other land owner namely Jeevarathinam and Usha, proportionately to the extent of land acquired from the petitioner. Accordingly, the Writ Petition in W.P. No. 25891 of 2018 is allowed.

9. Since the compensation amount has already been deposited, the petitioner is not entitled to invoke the provisions of Sections 24 (2) of the New Act of 30 of 2013 and therefore, W.P. No. 25874 of 2018 is dismissed. Consequently, connected Miscellaneous Petition is closed. There shall be no order as to the costs.

21.12.2023

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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No



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