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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A(MD)No.1100 of 2023
and
C.M.P(MD)Nos.8451 and 9294 of 2023

S.Murugavel ... Appellant

-vs-

1. The District Collector,
Collectorate,
Velunachiyar Compound,
Dindigul District.

2. The Special Revenue Divisional Officer/
Land Acquisition Officer,
Land Acquisition and Management Office,
Madurai.

3. The Assistant Divisional Engineer,
(Highways Planning and Sub Division),
Highways Office,
Dindigul.

4. The Special Tahsildar,
Land Acquisition Officer,
No.45, Highways Extension/
Land Acquisition,
Dindigul.

5. The Tahsildar,
Taluk Office,
Dindigul East Taluk,
Dindigul District. ... Respondents

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PRAYER : Appeal filed under Clause 15 of Letters Patent, against the order made in W.P(MD)No.4480 of 2023 dated 08.06.2023.

For Appellant : Mr.V.Karuna
For Respondents : Mr.Veera Kathiravan
Additional Advocate General

J U D G M E N T

[Judgment of the Court was made by S.S.SUNDAR, J.]

The appellant's property admittedly was acquired and the property also vested with the State Highways by virtue of Section 15(1) of the Tamil Nadu Highways Act, 2001.

2. The grievance of the appellant appears to be that the respondents acquired the land from his own brother. Stating that higher compensation was paid to his brother's land and that the compensation fixed for the appellant's land is very low, the appellant filed a writ petition for a Mandamus to pay compensation to the appellant's land in Survey No.769/1C total extent 2560 sq.ft in Balakrishnapuram Village, Dindigul East Taluk, Dindigul District.

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3. There is no dispute that the land belonged to the appellant was acquired after issuing a show cause notice and holding enquiry in accordance with the provisions of the Tamil Nadu Highways Act, 2001. It is also admitted that notice under Section 15(1) of the Act was also issued. The appellant's case is that he has not received the compensation and that therefore the acquisition proceedings cannot go further and his possession cannot be interfered with unless the compensation is paid to him.

4. The learned Additional Advocate General, on instructions, submitted that the notification under Section 15(1) of the Tamilnadu Highways Act, 2001, was published on 16.05.2022 and that the land of the appellant vested with the Government free from all encumbrances on the publication of the said notification.

5. The learned Additional Advocate General then submitted that the appellant participated in the award proceedings and the compensation has also been determined by award enquiry in terms of Section 19(5) of the Act. He has also produced the records to show that the award enquiry notice was served on the appellant. Since the appellant had not come forward to accept the compensation for his

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acquired land, it is stated that a sum of Rs.4,57,982/- which was fixed as compensation for the appellant's land, was deposited to the credit of LAOP.No.44/23 on the file of the Principal District Court, Dindigul, on 21.06.2023.

6. The grievance of the appellant is that the compensation fixed by the Land Acquisition Authority is inadequate. It is contended by the learned counsel for the appellant that the compensation fixed and disbursed to his brother is double the amount that was fixed in the case of the appellant. Therefore, his case that the compensation is inadequate is established. In such circumstances, the remedy available to the appellant is to seek a reference in terms of Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

7. At this juncture, learned Additional Advocate General stated that the respondents made a reference for determining just compensation for the acquired land of the appellant and the said reference is also pending before the Principal District Court, Dindigul, under Section 77(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

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8. Therefore, this Court directs the Reference Court as well as the respondents to treat the reference not only as one under Section 77(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, but also under Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, so that the appellant may go before the learned Judge for getting higher compensation for his acquired land.

9. As per Section 15(1) read with Section 16 of the Tamilnadu Highways Act, 2001, the appellant's land vests with the Government free from encumbrance once a notification is published under Section 15 of the Tamil Nadu Highways Act, 2001. Assuming that the appellant has not been awarded compensation as determined by the authority under the Act, he cannot resist for handing over the possession of the acquired land to the respondents. Therefore, the prayer in the writ petition is misconceived. Though the appellant is entitled to compensation, in view of the aforesaid direction to the Reference Court as well as the respondents to treat the reference not only under Section 77(2) but also under Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, this appeal is dismissed. It is open to the

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respondents to take possession of the property of the appellant which has been acquired in terms of Section 15 of the Tamil Nadu Highways Act, 2001. It is open for the petitioner to move the reference court for payment out of the sum already deposited, pending further claim for enhancement of compensation. No costs. Connected miscellaneous petitions are closed.

[S.S.S.R, J.] [D.B.C., J.]
07.08.2023

Index : Yes / No
Neutral Citation : Yes / No
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