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W.P.Nos.5636 of 2023 etc. batches

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2024

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.Nos.5636, 5639, 5640, 5642, 5643, 5644, 5646, 5647, 5648, 6967,
6969, 6971, 6973, 6977, 6979, 6982, 6985, 6987, 6989, 8168, 8174, 8176,
8177, 8181, 8185, 8186, 8191, 8192, 8194, 8368, 8371, 8374, 8375, 8376,
8377, 8378, 8383, 8385, 8387 of 2023
and WMP.No.8407 of 2023

R.Mythili

... Petitioner

VS.

1.The District Collector,
Kancheepuram,
Industries SIPCOT-LA Department,
Kancheepuram.

2.The Special Tahsildar (LA),
Mannur Valarpuram Nemili Scheme,
SIPCOT Project Office, INDL Park (First Floor),
Irungattukottai, Pennalur Post,
Sriperumbudur Taluk,
Kancheepuram District – 602 105.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorified Mandamus, calling for the records of the 1st respondent in her proceedings dated 25.07.2022 in



W.P.Nos.5636 of 2023 etc. batches

Na.Ka.No.191/2021/Aa and quash the same as arbitrary, illegal against law and without jurisdiction and thereby directing the respondents herein to refer the matter to the competent court as per Section 8 of The Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 and consequently directing the respondents herein to release the withheld amount to a tune of 33.33% (i.e Rs.42,70,672/-) as developmental charges, deducted from the compensation amount of the petitioner while passing the award dated 18.01.2021 to till date of payment along with interest.

For Petitioner : Mr.M.R.Kuyilan
in all Wps.
For Respondents : Mr.R.Ramanlal
in all Wps. Additional Advocate General
Assisted by
Mr.T.Arunkumar
Additional Government Pleader

COMMOMORDER

These writ petitions are filed challenging the order passed by the first respondent rejecting the request of the petitioners, who are affected by land acquisition proceedings, to refer the matter to Court for enhancement of compensation.



2. The land of the petitioners were acquired by the respondents

for forming Industrial Estate at Mannur Valarpuram Nemili Scheme.

Subsequently, the second respondent passed an award fixing compensation for the land of the petitioners acquired for industrial purpose. Not satisfied with the quantum of compensation fixed by the second respondent, the petitioners submitted a representation seeking reference to Court for enhancement of the compensation. The request of the petitioners were negated by the first respondent by impugned order. The land acquisition proceedings have been initiated under The Tamil Nadu Acquisition of Land for Industrial Purpose Act, 1997. Section (8) of said Act deals with reference to the Court at the request of the aggrieved land owners and the same reads as follows:

8. Reference to Court.

(1) Any person aggrieved by the decision of the Collector or the officer to whom the case was transferred, determining the amount may, within sixty days from the date of such decision, in so far as it affects him by application to the Collector or the officer to whom the case was transferred, require that the matter be referred by him for the determination of the Court as defined in the Land Acquisition Act, 1894 (Central Act I of 1894) and when any such application is made, the provisions of Part III of the said Act shall mutatis mutandis apply to further proceedings in respect thereof.



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W.P.Nos.5636 of 2023 etc. batches

(2) The decisions of the Court on such reference and subject only to such decision, the decision of the Collector determining the amount, shall be final.

3. In this regard, it would be appropriate to refer to Sections 18, 19 and 20 of Land Acquisition Act, which shall *mutatis mutandis* apply for further proceedings.

18. Reference to Court. -

(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken: Provided that every such application shall be made-

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of



W.P.Nos.5636 of 2023 etc. batches

the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.

19. Collector's statement to the court. -

(1) In making the reference, the Collector shall state for the information of the court, in writing under his hand -

(a) the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon;

(b) the names of the persons whom he has reason to think interested in such land; (c) the amount awarded for damages and paid or tendered under sections 5 and 17, or either of them, and the amount of compensation awarded under section 11; [(cc) the amount paid or deposited under sub-section (3A) of section 17; and] (d) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by the parties interested respectively.

20. Service of notice. - The Court shall thereupon cause a notice specifying the day on which the Court will proceed to



W.P.Nos.5636 of 2023 etc. batches

determine the objection, and directing their appearance before the Court on that day, to be served on the following persons, namely: -

- (a) the applicant;*
- (b) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded; and (c) If the objection is in regard to the area of the land or to the amount of the compensation, the Collector.*

4. A reading of Sections 18 to 20 would indicate whenever a person interested in an acquired land submits his objections to award, seeking reference to Court, the Collector is bound to refer the same to Court and only Court is entitled to determine the objections so raised. This can be gathered from employment of word “shall” in Section 20 of Land Acquisition Act. Therefore, on reference by Collector, the Court shall cause a notice specifying the date on which it will proceed to determine the objection. A combined reading of Sections 18 to 20 of Part III of Land Acquisition Act makes it clear only Court can determine the objections and Collector is not empowered to go into the merits of the objections raised by



interested party. Therefore, Collector is expected to act like a post office in forwarding objection to Court and he has no power to decide objection or has no discretion to decide whether to forward the objection or not. The only duty expected from Collector is to furnish certain information to Court as mandated by Section 19.

5. When request is made for reference to Court by a person not satisfied with the quantum of compensation fixed by the land Acquisition Officer, the Collector shall refer the matter to the Competent Court for determination of objections. In the case on hand, the first respondent went to the merits of the objections raised by the petitioners on which ground they sought for enhancement of the compensation and negated the request for reference. By doing so, virtually the first respondent assumed the role of Court, which alone is expected to go into the grounds raised by the petitioners seeking enhancement of the compensation. Therefore, the impugned order passed by the first respondent negating the request of the petitioners for enhancement of the compensation on the merits of the matter is without jurisdiction and unsustainable in law.



W.P.Nos.5636 of 2023 etc. batches

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6. The learned Additional Advocate General appearing for the respondents tried to justify the finding rendered by the first respondent with regard to the reduction of 33.33% towards developmental charges. When this Court comes to the conclusion that the first respondent has no jurisdiction to consider the objection on merits, the said finding rendered by the first respondent on the merits of the claim is also liable to be set aside. It is made clear that the second respondent is entitled to canvass the correctness of deduction towards developmental charges before the Court, when the reference is heard in accordance with law.

7. With these clarification, the impugned order passed by the first respondent is set aside and the matter is remanded back to the file of first respondent to consider the request of the petitioners for reference to Court in the light of Section 8 of The Tamil Nadu Acquisition of Land for Industrial Purpose Act, 1997. The final order of the first respondent with regard to the request of the petitioners seeking reference shall be passed within a period of six weeks from the date of receipt of a copy of this order.



W.P.Nos.5636 of 2023 etc. batches

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8. Accordingly, these writ petitions stand allowed. No costs.

Consequently, connected miscellaneous petition is closed.

29.08.2024

Index : Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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To

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Kancheepuram,
Industries SIPCOT-LA Department,
Kancheepuram.

2.The Special Tahsildar (LA),
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S.SOUNTHAR, J.

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