



W.A.No.524 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2024

CORAM

THE HON'BLE Mr. JUSTICE R.SURESH KUMAR
AND
THE HON'BLE Mr. JUSTICE K.KUMARESH BABU

W.A.No.524 of 2018 and
C.M.P.No.4918 of 2018

1.The Special Secretary (Revenue)
- cum – The District Collector
Puducherry District,
Puducherry.

2.The Sub Collector cum
Land Acquisition Officer,
(Revenue-South),
Villianur, Puducherry.

... Appellants

Vs.

S.Karthikeyan

... Respondent

Prayer : Appeal filed under Clause 15 of the Letters Patent Act, praying
to set aside the order dated 12.06.2017 in W.P.No.6964 of 2015.

For Appellants : Dr.B.Ramasamy

Additional Govt. Pleader (Pondy)

For Respondent : Mr.V.S.Senthilkumar



W.A.No.524 of 2018

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JUDGMENT

(Judgment of the Court was delivered by R.SURESH KUMAR, J.)

This appeal has been directed against the order dated 12.06.2017 made in W.P.No.6964 of 2015.

2. The respondent's land was acquired under the Land Acquisition Act, 1894. The 4(1) notification was issued on 19.06.2007. Section 6 declaration was made on 02.09.2008. Thereafter, an award was passed on 16.04.2010.

3. However, at that stage the respondent/writ petitioner earlier filed a writ petition in W.P.No.11117 of 2010 seeking for a direction to the respondents therein from proceeding with the acquisition proceedings until the outcome of the appeal pending before the Director of Survey and Land records.

4. In the said writ petition, an interim order of stay of dispossession alone was granted.



W.A.No.524 of 2018

5. Ultimately the writ petition was finally disposed on 28.02.2014.

Thereafter, the possession was taken on 19.05.2014 and as per the award, the amount has been deposited in Civil Court in January 2015.

6. These factors are not in dispute which has been recorded by the learned Judge in the order impugned itself.

7. With the background of these factors, the respondent/writ petitioner had approached the Writ Court seeking for a compensation for the land acquired under the New Act i.e. the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short '2013 Act').

8. When the said writ petition was heard, it was the stand taken by the appellants before the Writ Court that, because of the writ petition had been filed which was pending where the interim order of stay was granted even though award was passed in the year 2010, the amount could not be deposited and only after the writ petition was disposed on 28.02.2014, steps had been taken to deposit the award amount which has been deposited in the year 2015. Therefore it cannot be stated that, the



W.A.No.524 of 2018

award amount has been deposited belatedly i.e. after the 2013 Act has come into effect.

9. The said argument made on behalf of the respondents in the writ petition who are the appellants herein was considered and rejected by the learned Judge. In order to appreciate the said factor, the following part of the order which is impugned passed by the Writ Court, which is extracted hereunder:

“7. Admittedly, the order of injunction was with respect to the dispossession pending the writ petition as seen from paragraph 9 of the counter affidavit filed. Thereafter, the writ petition was disposed of with certain directions.

8. Thus, two facts have emerged. Firstly, there was no bar for the respondents to deposit the award amount during the pendency of the writ petition. Secondly, the possession followed by deposit have been made after the disposal of the writ petition. Incidentally, it is also to be noted that though the possession was taken on 19.05.2014, the deposit was made in the month of January 2015.

9. Thus, admittedly both possession and deposit have been made after the New Act has come into force. In so far as the issue pertaining to the possession is concerned, the



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W.A.No.524 of 2018

learned Additional Government Pleader (Pondicherry) appearing for the respondents is correct, since there was an order prohibiting taking over. However, the said submission cannot be extended to the fact regarding the belated deposit of the award amount. A mere pendency of the writ petition by itself cannot be a bar from proceeding with the acquisition initiated under the earlier Act, especially, when the interim order permits the respondents to proceed. What the petitioner seeks is a compensation under the New Act.

10.As there is no dispute that the deposit of the award amount has been made only in the impugned of January 2015, this Court is of the view that the petitioner is entitled to succeed. Accordingly, the order amount is set aside and consequently the respondents are directed to fix the compensation under the Act 30 of 2013 within a period of eight weeks from the date of receipt of a copy of this order.”

10. The learned Judge has made it very clear that, the stay was granted by the Writ Court only in respect of dispossession of the writ petitioner from the land in question which was acquired and that would not preclude the authorities in depositing the award amount.



W.A.No.524 of 2018

WEB COPY

11. Despite this factor, the award amount has not been deposited before the 2013 Act came into effect and belatedly it was deposited in January 2015. In this context it is to be noted that, Section 24(2) Proviso of the 2013 Act as made it clear that, where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under Section 4 of the Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of the Act, that means the 2013 Act.

12. Here in the case in hand, the award has been passed, however no compensation in majority of the land holdings has been deposited in the account of the beneficiary before the 2013 Act came into effect. In such circumstances, the compensation shall be calculated and be paid only under the provisions of 2013 Act.

13. This has been taken into account by the learned Judge and ultimately the learned Judge had passed orders allowing the writ petition directing the appellants herein who are the respondents in the writ



W.A.No.524 of 2018

petition to compensate as per the 2013 Act. We do not find any error in the said order which is impugned herein passed by the Writ Court, therefore the appeal fails hence it is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

[R.S.K., J.] [K.B., J.]
09.01.2024

Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

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W.A.No.524 of 2018

R. SURESH KUMAR, J.
and
K.KUMARESH BABU, J.

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W.A.No.524 of 2018

09.01.2024