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W.P.No.23557 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2024

CORAM

THE HON'BLE **MS.JUSTICE P.T.ASHA**

W.P.No.23557 of 2024

Saroja Venkataraman

... Petitioner

Vs.

1. The District Collector,
Chengalpat District.

2. The District Revenue Officer, (Land Acquisition),
Chennai – Kanyakumari Industrial Corridor Scheme,
Kancheepuram.

3. The Revenue Divisional Officer,
Tambaram.

4. The Special Tahsildar,
Land Acquisition and Management,
Tambaram.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the proceedings dated 30.04.2024 made in Na.Ka.No.1202/2022/A4 passed by the 2nd Respondent herein quash the same and direct the respondents herein to afford an opportunity in accordance with Section 19 of the Tamil Nadu Highways Act, 2001 and determine the land acquisition compensation



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amount in respect of the petitioners lands that are sought to be acquired.

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For Petitioner : Mr.S.Senthilnathan

For Respondents : Mr.A.Selvendran
Special Government Pleader

ORDER

Aggrieved by the fact that the Petitioner had not been afforded an opportunity as contemplated under Section 19(5) of the Tamil Nadu Highways Act, 2001, while determining the compensation for the land acquired from the Petitioner, the Petitioner is before this Court.

2. The brief facts of the case is that the Petitioner is the owner of the two shops bearing Shop No.1 and Shop No.2 in Plot No. Shop-A measuring to an extent of 2396 sq.ft. in DTCP Approved Layout No.LPDM/DDTP No.112 of 1972 comprised in Survey No.76/2D in No.175 Gowrivakkam Village, Saidapet Taluk, Tambaram Taluk. The property was purchased by the Petitioner under a registered Sale Deed dated 19.09.1983 from Renuka Ramadass. Likewise, the Petitioner also owned Shop No.1 & 2 in Plot No.Shop – B measuring to an extent of 2385 sq ft. in DTCP Approved Layout



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No.LPDM/DDTP No.112 of 1972 Comprised in Survey No.76/2D in No.175

Gowrivakkam Village, formerly Saidapet Taluk, now Tambaram Taluk, Chengalpet District, which also purchased on the same date from Renuka Ramadass under a registered Sale Deed dated 19.09.1983. The patta and other revenue records were mutated in the name of the Petitioner and he has been in absolute possession and enjoyment of the same by letting out the shops for rent.

3. While so, the said properties were proposed to be acquired for the purpose of laying Storm Water Drain on the Velachery – Tambaram main road. The Petitioner had submitted his objections to the same. Thereafter, he had agreed for a private negotiations for determining the compensation amount. However, the Petitioner would submit that no negotiations had taken place and an Award was unilaterally passed by the 2nd Respondent, wherein the value of the said properties were fixed at a sum of just Rs.1,66,74,450/- for both the properties. The property in open market would fetch a higher market value. The Petitioner would submit that the market value is nearly a sum of Rs.14,000 per sq.ft. and he is therefore, entitled to a compensation under the right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013).



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4. Heard the learned counsel on either side.

5. A perusal of the Impugned Order does not reflect the consideration of objections as contemplated under Section 19(5) of the Tamilnadu Highways Act, 2001. Section 19(5) of the Tamilnadu Highways Act, 2001 would read as follows:-

“Before finally determining the amount, the Collector shall give an opportunity to every person to whom the amount has to be paid to state his case as to the amount.”

6. The Act makes it mandatory that before determining the amount, a final opportunity should be given to every person to submit his/her objections on the proposed amount.

7. A perusal of the counter affidavit would clearly indicate the prevaricating stand taken by the Respondent. The 4th Respondent in Paragraph No.4 of the counter affidavit would state that the 4th Respondent by proceedings dated 17.07.2023 had fixed the compensation for the lands and



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thereafter, though a mention is made to the award enquiry notice under Section 19(5) and 19(7), there is nothing in the affidavit to show that such an enquiry notice has been sent. The Respondent would further submit that the Petitioner had appeared for the award enquiry on 30.08.2023, however the document showing the attendance for the enquiry on 30.08.2023 does not reflect the presence of the Petitioner. Therefore, the statement made in the counter affidavit is totally false.

8. That apart, in paragraph no.5 it was contended that one Kalpana Kiran represented the Petitioner and she had submitted a Letter dated 30.08.2023. However, her name also is not reflected in the documents produced by the Respondents along with their counter. Therefore, it is crystal clear that Section 19(5) enquiry has been proceeded without the presence of the Petitioner. Therefore, considering the fact that statutory provision provided under Section 19(5) has not been followed, the impugned order requires to be set aside.

9. Therefore, the Impugned Order dated 30.04.2024 is set aside and the matter is remitted back to the 1st Respondent to issue a fresh notice to the Petitioner and to hear her objections with reference to the compensation amount in accordance with law. In the case of a rejection, a speaking order



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shall be passed. The aforesaid exercise shall be completed within a period of four (4) weeks from the date of receipt of a copy of this Order.

10. The Writ Petition is allowed in terms of the above observations and directions. No cost.

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Index : Yes/No
Speaking/Non-speaking Order
Neutral Citation : Yes/No
rgm

To

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