
(2003) 04 MAD CK 0012

In the Madras High Court

Case No : Writ Petition No. 14478 of 2002

C. Muthukumaraswamy (Deceased) Vanitha Manikavasagam	APPELLANT
Vs	
State of Tamilnadu	RESPONDENT

Date of Decision : 30-04-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 04 MAD CK 0012

Hon'ble Judges : P.D. Dinakaran, J

Bench : Single Bench

Advocate : C. Ramakrishna, for K. Viswanath, for the Appellant; M.S. Palanisamy, Addl. Govt. Pleader, for the Respondent

Judgement

P.D. Dinakaran, J.—By consent, the writ petition itself is taken for final hearing.

2. On an undisputed fact that the petitioner was awarded a compensation to the tune of Rs. 32,65,278/- towards acquisition of 10 acres of land

located in Survey No. 87/1B 2A in Mahabalipuram Town, Chingleput District, and that the respondents had also taken possession of the said land

as early as 1987/1988, but till date the compensation has not been settled in spite of the decision of the Division Bench of this Court dated

20.10.1997 in A.S. No. 1090 of 1995 and A.S. No. 782 of 1997, which had become final, the petitioner seeks a writ of mandamus to direct the

respondents to pay the entire decree amount with interest and cost as per orders in A.S. No. 1090 of 1995 passed by this Court within 30 days

from the date of the order or hand over the land comprising in Survey No.87/1B 2A of an extent of 10 acres in Mahabalipuram Town, Chingleput

District

3. Mr. C. Ramakrishna, learned senior counsel seriously contends that the

petitioner has got every right to compel the respondents to perform the duty cast upon them in settling the compensation awarded to the petitioner, as the respondents having taken possession of the land acquired have got a statutory obligation to settle the compensation with interest.

4. Mr. M.S. Palanisamy, learned Additional Government Pleader expresses his helplessness to defend the inaction and failure on the part of the respondents to settle the compensation awarded to the petitioner.

5, I do not find any reason for the delay in making the payment towards the admitted liability of compensation awarded to the petitioner for the acquisition of the lands mentioned above.

6. It is inequitable that the person who is deprived of the possession of the land on account of acquisition proceedings is not given the amount

which law demands to be paid to him; any delay thereafter would only be to his detriment. It is a legal obligation of the State to pay the

compensation awarded to the party from whom the lands were statutorily acquired under compulsory nature of acquisition, which is distinguished

from voluntary sale or transfer. In the latter, the land owner has the widest advantage in finding out a would-be buyer and in negotiating with him

regarding the sale price. Even in such negotiations or haggling, normally no land owner would bargain for any amount in consideration of his

disinclination to part with the land. The mere fact that he is negotiating for sale of the land would show that he is willing to part with the land. The

owner is free to settle terms of transfer and choose the buyer as also to appoint the point of time when he would be receiving consideration and

parting with his title and possession over the land. But in compulsory acquisition the land owner is deprived of the right and opportunity to negotiate

and bargain for the sale price. It depends on what the Collector or the Court fixes as per the provisions of the Land Acquisition Act. It is thus clear

that there is a legal obligation on the part of the State to settle the compensation awarded to the party from whom the land is acquired immediately

while taking over possession of the land. Any delay in making such payment entitles the person to receive interest on the whole amount including

the solatium, vide *Sunder Vs. Union of India*, .

7. In the instant case, finding no reason for the delay on the part of the respondents in making payment towards the admitted liability of

compensation for the acquisition of the impugned land, I am inclined to direct the respondents to settle the legitimate dues, namely, the

compensation and solatium with interest, as per law, to the petitioner for the land acquired within a period of sixty days from the date of receipt of

copy of this order.

8. In the result, this writ petition is ordered accordingly. No costs. Consequently, W.P.M.P. No. 19480 of 2002 is closed.

9. The Registry is directed to post the writ petitions for reporting compliance on 30.6.2003.