
(2013) 02 MAD CK 0056

In the Madras High Court

Case No : Writ Petition No. 28468 of 2012

Chandramathi Muthiah

APPELLANT

Vs

District Collector and Another

RESPONDENT

Date of Decision : 14-02-2013

Acts Referred:

Constitution of India, 1950 — Article 14, 300A

Citation : (2013) 3 MLJ 240

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : A. Thyagarajan, for S. Ramesh Kumar, for the Appellant; K. V. Dhanapalan, Additional Government Pleader, for the Respondent

Judgement

M. Jaichandren, J.—Heard the learned counsel appearing for the petitioner, as well as the learned counsel appearing on behalf of the

respondents. The petitioner has stated that he had purchased the properties, in Plot Nos. 38,42 and 43, Srinivasa Nagar layout, 137, Velachery

Village, Saidapet, by way of registered sale deeds, dated 17.2.1966 and 14.3.1966. When the petitioner wanted to sell the properties in question

for mobilising the funds, for medical treatment, he had come to know, during the month of September, 2011, that the said properties had been

acquired for the purpose of forming an highway. However, the petitioner had received the award amount of Rs. 22,82,006.40, under protest, as

he had required the said amount for his medical treatment. Thereafter, the petitioner had made an application, dated 22.9.2011, requesting the first

respondent to refer the matter to the Court concerned, as per Section 20 of the Tamilnadu Highways Act, 2001, for the enhancement of the

compensation amount. However, the first respondent, by the impugned

proceedings, dated 30.8.2012, rejected the request of the petitioner stating that the application filed by the petitioner is beyond the period of limitation prescribed u/s 20(1) of the Tamilnadu Highways Act, 2001.

2. The learned counsel appearing on behalf of the petitioner had submitted that the petitioner had knowledge of the award only on 9.8.2011.

Therefore, the application filed by the petitioner, on 22.9.2011, is within the time limit prescribed u/s 20(1) of the Tamilnadu Highways Act, 2001.

He had relied on the decision of the Supreme Court, in Bhagwan Das and Others Vs. State of UP and Others, , wherein, it had been held as

follows:

25. Invariably, the land loser is required to make an application u/s 18 of the Act to get the market value as compensation. The land-loser does not

get a right to seek reference to the civil court unless the award is made. This means that he can make an application seeking reference only when

he knows that an award has been made.

26. If the words six months from the ""date of the Collector's award"" should be literally interpreted as referring to the date of the award and not the

date of knowledge of the award, it will lead to unjust and absurd results. For example, the Collector may choose to make an award but not to

issue any notice u/s 12(2) of the Act, either due to negligence or oversight or due to any ulterior reasons. Or he may send a notice but may not

bother to ensure that it is served on the land owner as required u/s 45 of the Act. If the words ""date of the Collector's award"" are literally

interpreted, the effect would be that on the expiry of six months from the date of award, even though the claimant had no notice of the award, he

would lose the right to seek a reference. That will lead to arbitrary and unreasonable discrimination between those who are notified of the award

and those who are not notified of the award.

27. Unless the procedure under the Act is fair, reasonable and non-discriminatory, it will run the risk of being branded as being violative of Article

14 as also Article 300A of the Constitution of India. To avoid such consequences, the words ""date of the collector's award"" occurring in proviso

(b) to Section 18 requires to be read as referring to the date of knowledge of the essential contents of the award, and not the actual date of the

Collector's award.

28. The following position therefore emerges from the interpretation of the proviso to Section 18 of the Act:

(i) If the award is made in the presence of the person interested (or his authorised representative), he has to make the application within six weeks

from the date of the Collector's award itself.

(ii) If the award is not made in the presence of the person interested (or his authorised representative), he has to make the application seeking

reference within six weeks of the receipt of the notice from the Collector u/s 12(2).

(iii) If the person interested (or his representative) was not present when the award is made, and if he does not receive the notice u/s 12(2) from

the Collector, he has to make the application within six months of the date on which he actually or constructively came to know about the contents

of the award.

(iv) If a person interested receives a notice u/s 12(2) of the Act, after the expiry of six weeks from the date of receipt of such notice, he cannot

claim the benefit of the provision for six months for making the application on the ground that the date of receipt of notice u/s 12(2) of the Act was

the date of knowledge of the contents of the award.

3. A counter affidavit had been filed on behalf of the second respondent stating that the notice regarding the passing of the award had been issued

to the petitioner, as per the provisions of the Tamilnadu Highways Act, 2001. It has also been stated that a notice, u/s 15(1) of the Tamilnadu

Highways Act, 2001, had been published in the Tamilnadu Government Gazette and the land in question had vested with the State government,

from the said date, free from all encumbrances. After completing the award enquiry, a final award had been proclaimed, on 2.1.2009, in Award

No. 1 of 2009. Thereafter, a total amount of Rs. 20,93,131/- had been determined, as the compensation to be awarded, in respect of the land in

S.No. 665/4, Velachery village, measuring an extent of 0.25 cents. As such, the claim of the petitioner for referring the matter, u/s 20 of the

Tamilnadu Highways Act, 2001, which had been made on 22.9.2011, is belated, as it is beyond the period of sixty days specified under the said

provision.

4. In view of the submissions made by the learned counsels appearing on behalf

of the parties concerned and in view of the records available and on considering the decision cited supra, this Court is of the considered view that the limitation of sixty days, prescribed u/s 20(1) of the Tamilnadu Highways Act, 2001, would commence only from the date of the knowledge of the award, as held by the Supreme Court, in Bhagwan Das v. State of U.P. (supra).

5. It has been shown that the petitioner had knowledge of the award only on 9.8.2011 and only thereafter, he had submitted the application, for referring the matter to a civil court, u/s 20(1) of the Tamilnadu Highways Act, 2001, on 22.9.2011. Thus, it is clear that the request made by the petitioner is within the time limit prescribed under the said provision. In such circumstances, the impugned proceedings of the first respondent is set aside. Consequently, the first respondent is directed to refer the request of the petitioner, for the enhancement of the compensation amount, relating to the land in question, acquired under the provisions of the Tamilnadu Highways Act, 2001, as per the award, in Award No. 1 of 2009, to the civil court concerned, as per Section 20(1) of the Tamilnadu Highways Act, 2001, within a period of six weeks from the date of receipt of a copy of this order. The writ petition is ordered accordingly. No costs.