

(2010) 02 MAD CK 0046

In the Madras High Court

Case No : Writ Petition No. 2384 of 2009 and M.P. No. 1 of 2009

H.V. Byrappa

APPELLANT

Vs

The Special Tahsildar (LA) and The District Collector

RESPONDENT

Date of Decision : 25-02-2010

Acts Referred:

Tamil Nadu Acquisition of Land for Industrial Purpose Act, 1997 — Section 8

Citation : (2010) 02 MAD CK 0046

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : V. Lakshminarayanan, for the Appellant; R. Neelakantan, GA, for the Respondent

Judgement

K. Chandru, J.—Heard both sides. The petitioner has come forward to file the present writ petition, seeking to challenge the proceedings of

the first respondent, dated 31.12.2007 and after setting aside the same, seeks for a further direction to refer the Award No. 2/2007 to the civil

court u/s 8 of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997.

2. The writ petition was not admitted. From time to time, it was adjourned. On 21.8.2009, this Court directed the learned Government Advocate

to find out whether the owner of the property had raised any objection for receiving compensation and whether the Award was intimated to the

land owner. On 09.10.2009, this Court recorded that an Award was already passed in this matter and it was also received by the subsequent

purchaser. Therefore, it was directed to be posted for orders.

3. The case of the petitioner was that the property in Survey No. 270/1B Dry land measuring an extent of 0.59.0 hectares in Hanumanthapuram

Village, Kumudepalli Post, Hosur Taluk, Krishnagiri belonged to one Venkatachalapathy. His adjacent lands were acquired by various industries.

The petitioner was in occupation and enjoyment of the said property. A few feet away from the petitioner's land, the National Highways is running.

It was stated that the land acquisition proceedings were initiated all of sudden, which led to protest by the local public. They were intimated that the lands were acquired for the purpose of SIPCOT.

4. According to the petitioner, the erstwhile owner Venkatachalapathy appeared and objected to the meager amount fixed for compensation.

Without any heed to the objection, the Award was passed on 16.3.2007 vide Award No. 2/2007. The compensation fixed by the first respondent

was Rs. 1,23,500/- for a hectare. It was stated that the said Venkatachalapathy had executed a power of attorney in favour of the petitioner. On

coming to know about the Award, the petitioner raised objections requesting the first respondent to refer the matter to the Civil Court u/s 8 of the

Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997. It was also claimed that the Award was passed on 16.3.2007 and a copy was

communicated to the petitioner belatedly. The petitioner was informed through his counsel on 31.12.2007 that there cannot be any reference for

enhanced payment, since his claim was made belatedly. It was stated that the Government cannot deny a just compensation. Therefore, the

petitioner came forward to challenge the impugned order, dated 31.12.2007 in refusing to refer to the dispute.

5. The petitioner was informed that the land owner Venkatachalapathy appeared for the Award enquiry and received compensation. He did not

submit any application for enhanced compensation u/s 8 of the Act. He had also not disclosed anything during the Award enquiry. There is no

power for him to delegate to any third person subsequent to the Award. Even the petitioner did not disclose about the so-called power of attorney

either at the time of Award enquiry or filed an application within 60 days after passing the Award.

6. In the counter affidavit filed by the first respondent, dated 1.4.2009, the same stand was taken. The petitioner's right as the owner was also

disputed. The petitioner had purchased the land only by a sale deed, dated 18.3.2005 registered as document No. 2391/2005. It was also stated

that the same petitioner had made reference u/s 8 in respect of the acquisition of survey No. 267/2 in Moranapalli village, Hosur Taluk, Krishnagiri

District. Therefore, it is not as if he is not aware of due procedure.

7. No doubt, the lands were acquired under the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (Tamil Nadu Act, 10/99).

Section 8 of the Act 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.

(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.

8. In the present case, the Award was passed in award No. 2/2007 on 16.3.2007. In respect of S. No. 267/2, the petitioner himself had given an

objection on 22.5.2007. But it was claimed there is no such objection given either by the petitioner claiming to be the power holder or by the land

owner Venkatachalapathy. However, the said Venkatachalapathy had appeared in the enquiry as found in page 22 of the Award. He claimed that

the compensation of Rs. 50000/- was on the lower side. Though compensation of Rs. 1,51,320/- was arrived at, it was stated that with reference

to his demand for higher compensation, u/s 8 of the Act, information will be sent to the Sub Court. But paragraph 5 of the counter affidavit is at

variance with the contents of the Award proceedings. It is not clear as to why respondents have taken such a stand having recorded in the Award

proceedings that the request of the said Venkatachalapathy will be forwarded for higher compensation to the Court.

9. Though Mr. V. Lakshminarayanan, learned Counsel for the petitioner took pains to argue that limitation has to be calculated from the date on

which the petitioner came to know about the Award and he also relied upon two

judgments of the Supreme Court, it is unnecessary to go into

details of such contentions. It is suffice to state that the learned Counsel relied upon the judgments of the Supreme Court in Raja Harish Chandra

Raj Singh Vs. The Deputy Land Acquisition Officer and Another, and Steel Authority of India Ltd. Vs. S.U.T.N.I Sangam and Others, . In the

second case, earlier case of Raja Harish Chandra Raj Singh was followed.

10. u/s 8, the application to the Collector or to the Officer to whom the case was transferred, require that the matter be transferred by him for

determination of the Courts. In the present case, even in the Award, the original land owner had demanded enhanced compensation. The

respondents also agreed to refer the issue to the Sub Court as noted in the impugned Award. The petitioner had got into the shoes of the erstwhile

land owner. Since the original land owner had raised the issue and the petitioner had only followed the said objection by subsequently sending a

legal notice, dated 22.12.2007, it cannot be said that his request was out of time.

11. In that view of the matter, the writ petition will stand allowed. The respondents are directed to make reference of the issue of enhanced

compensation raised by the petitioner in respect of S. No. 270/1B Dry land in Hanumanthapuram village, Kumudepalli Post, Hosur Taluk,

Krishnagiri to an extent of 0.59.0 hectares to the Sub Court within a period of four weeks from the date of receipt of copy of this order. No costs.

Consequently, connected miscellaneous petition stands closed.