

(2006) 09 MAD CK 0033

In the Madras High Court

Case No : W.A. No"s. 2979 to 2981 of 2002, 1899 to 1901 of 2003, 3872 to 3876 of 2004 and 1167 and 1479 of 2005 and W.A.M.P. No"s. 2659 to 2661 of 2003, 7335 to 7339 of 2004 and 2125 and 2753 of 2005

The Special Tahsildar, Land Acquisition Housing, The
Executive Engineer Tamil Nadu Housing Board and The
Executive Engineer and Administrative Officer Vellore Housing
Unit

APPELLANT

Vs

Murugesu Gounder and Others

RESPONDENT

Date of Decision : 13-09-2006

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (2006) 4 LW 436

Hon'ble Judges : V. Ramasubramanian, J;D. Murugesan, J

Bench : Division Bench

Advocate : C. Thirumari, Government Pleader in W.A. Nos. 2979 to 2981 of 2002 and K. Chelladurai, for T.N.H.B. in W.As. Nos. 1899 to 1901 of 2003, 3872 to 3876 of 2004 and 1167 and 1479 of 2005, for the Appellant; R. Margabandu, for the Respondent

Final Decision : Allowed

Judgement

D. Murugesan, J.,

1. In all these writ appeals, the Executive Engineer, Tamil Nadu Housing Board, Vellore questions the orders in the writ petitions directing the

Special Tahsildar, Land Acquisition Housing, Ranipet to refer the matter u/s 18 of the Land Acquisition Act to Civil Court for adjudication

pursuant to the Award Nos. 4/1988 and 5/1988 dated 30.6.1988, 14.9.1988 and 1.8.1988.

2. The details as to the issues are as follows:

Award Writ Appeal Nos. writ petition Nos. Survey Nos. Extent

Nos.

5/1988 2979 of 2002 31678 of 2002 61/11 0.31

"" "" 61/12 0.62

cents

5/1988 2980 of 2002 31679 of 2002 61/9 0.28 3/4,

"" "" 66/1 0.14,

67/2 0.37

cents

5/1988 2981 of 2002 31680 of 2002 61/9 0.05

"" "" 62/3 0.24

61/7 0.19

61/14 0.11

cents

5/1988 3872 of 2004 35947 of 2003 61/4 0.25

61/5 0.27

4/1988 3873 OF 2004 38359 OF 2002 28/4 0.84 1/2

5/1988 3874 OF 2004 42105 OF 2002 61/9 0.22

66/2 0.10

5/1988 3875 OF 2004 3149 OF 2003 67/1 0.10 1/2

61/7 0.19

61/5 0.81

61/6 0.02

4/1988 3876 OF 2004 3208 OF 2003 25/2 and 0.20

a portion of well

in S. No. 26/1

25/1 0.19

26/1 0.18

28/4 0.84

5/1988 1899 of 2003 31678 of 2002 61/11 0.31

61/12 0.62

5/1988 1900 of 2003 31679 of 2002 61/9 0.28 1/4

66/1 0.14

67/2 0.37

5/1988 1901 of 2003 31680 of 2002 61/9 0.05

62/3 0.24

61/7 0.19

61/14 0.11

5/1988 1167 of 2005 36717 of 2004 61/4 0.25

61/5 0.27

4/1988 1479 of 2005 2243 of 1996 27/5 26-1/2

and

26-1/2

3. Mr. K. Chelladurai, learned Counsel appearing for the appellant would contend that the orders in the writ petitions were made without

impleading the Tamil Nadu Housing Board as one of the respondents. The Tamil Nadu Housing Board is a necessary party for the disposal of the

reference u/s 18 of the Act. Secondly, he would submit that the petitioner having received the compensation under protest cannot maintain an

application for reference and thirdly, in any event, the writ petitions should have been dismissed on the ground of laches.

4. Insofar as the appeals relating to the award No. 4/1988, Mr. R. Margabandu, learned Counsel appearing for the contesting respondents would

submit that inasmuch as the claim of similarly placed persons have already been referred to the Civil Court, the appellant/Tamil Nadu Housing

Board cannot object to the directions sought for.

5. Insofar as the appeals relating to the award No. 5/1988, Mr. Margabandu learned Counsel appearing for the contesting respondents would

further submit that the land acquisition officer in the award itself has stated that he would refer the matter u/s 18 of the Land Acquisition Act.

Hence, the contesting respondents did not file such an application.

6. As far as the contention relating to the award No. 4 of 1988, it must be stated that the reference in those cases were made by the Special

Tahsildar on a written application made by the persons aggrieved in time and in

accordance with Section 18 of the Act. The contesting

respondents cannot be equated to those individuals and seek for similar direction. Hence, we are not inclined to accept the submission made by the learned Counsel appearing for the contesting respondents.

7. A perusal of the award shows that the land acquisition officer has made a reference in the award, namely, ""Reference u/s 18 of the Land

Acquisition Act will be sent to the Principal Subordinate Judge, North Arcot Vellore to decide the enhanced compensation as per rules."" It is true

that by the above, the Special Tahsildar, Land Acquisition had indicated that a reference u/s 18 would be sent to the Civil Court for a decision as

to enhancement of compensation as per rules. The said observation was made as early as on 30.6.1988, 14.9.1988 and 1.8.1988. Though it is

claimed by the contesting respondents that they are under the bona fide impression that the Land Acquisition Officer would come forward to refer

the matter, in our opinion, such claim cannot be accepted for more than one reason that the observation was made in the year 1988 and the

contesting respondents did not take any step or not even bothered to verify as to whether the reference has been made or not, till they approached

this Court in the year 2002 i.e. after a period of nearly 14 years.

8. We are told that the pursuant to the award, the lands were taken possession and handed over to the Tamil Nadu Housing Board and the

scheme was also implemented. The contesting respondents are not diligent in prosecuting their claims and lapses on their part have not been

properly explained. Once the scheme is implemented and third parties interested have come, if the reference is ordered after a lapse of 14 years,

the final cost arriving and collected by the Housing Board will be accepted and the allottees were not parties before this Court will be made to bear

the difference in cost for no fault of them and in such circumstances, it would not be proper for this Court to direct the reference for the fault, the

contesting respondents, in not prosecuting their case within a reasonable period.

9. In view of the lapses on the part of the contesting respondents, we are not inclined to consider the above submissions and that the writ petitions

are ought to have been rejected on the ground of laches. Accordingly, the writ appeals are allowed and the impugned orders in the writ petitions

are set aside. No costs. Consequently, connected W.A.M.P. Nos. 2659 to 2661 of

2001, W.A.M.P. Nos. 2125 and 2753 of 2005 and
W.A.M.P. Nos. 7335 to 7339 of 2004 are closed.