

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2015

CORAM:

THE HONOURABLE MR.JUSTICE SATISH K. AGNIHOTRI

AND

THE HONOURABLE DR.JUSTICE P.DEVADASS

W.A.No.1596 of 2015

AND

M.P.NO.1 OF 2015

- 1.The District Collector,
Dharmapuri District,
Dharmapuri.
 - 2.The District Collector,
Krishnagiri District,
Krishnagiri.
 - 3.The Revenue Divisional Officer/LAO,
O/o The Revenue Divisional Office,
Krishnagiri.
 - 4.The Executive Engineer,
Public Works Department,
(Water Resources Organisation),
Mel Pennar Vadi Nila Uttakotam.
 - 5.The Chief Engineer,
(Water Resources Organisation),
Chepauk,
Chennai-600 005.
 - 6.The Principal Secretary,
The Commissioner of Land Administration,
Ezhilagam, Chepauk,
Chennai-600 005.
- .. Appellants/Respondents

Vs.

- 1.Ganesan @ Nallamara Gounder
- 2.Sulochana
- 3.Oomaiyan @ Varada Gounder
- 4.Kullamara Gounder
- 5.Bairagounder
- 6.Thulasi
- 7.Chinnappa Gounder
- 8.Thangavel
- 9.Raji Gounder
- 10.Ramasamy Gounder
- 11.Prabavathy
- 12.Nagaraja
- 13.Raman

14.Samikannu
15.Ramamoorthy
16.Maran
17.Marappan
18.Sivalingam
19.Duraisamy
20.Thamarai Selvan
21.V.Manivannan
22.Gopal
23.Chennai Krishnan
24.Kaliyammal
25.Kuppusamy
26.Krishnan
27.Senthalingam
28.V.Govindan

... Respondents/Petitioners

Appeal filed under Clause 15 of the Letters Patent against the order passed by this Court dated 10.04.2015 passed in W.P.No.14774 of 2014. WP No.14774/2014: Petition under Article 226 of the constitution of India to issue a writ of certiorarified Mandamus calling for the records relating to the proceedings of the first respondent in Na.Ka.No.6443/99/72, dated: 30.08.1999, quash the same and direct the respondent to disburse the enhanced compensation amount under section 28A of the Land Acquisition Act 1894 on par with the compensation awarded in LAOP No.108/1999 to 116/1989, dated 15.09.1995 by the Sub Court Dharmapuri to the petitioners.

For appellants : Mrs.A.Srijayanthi, Spl.G.P.

JUDGMENT

(Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

Questioning the correctness of the proceedings of the first appellant herein, dated 30th August, 1999, whereunder the application made by the writ petitioners / respondents herein under Section 28-A of the Land Acquisition Act, 1894 (for short "the Act") for enhancement of the compensation in view of the compensation awarded in L.A.O.P.Nos.108 to 116 of 1989 dated 15th September, 1995, was rejected, the instant writ petition was filed.

2 The brief facts of the case are that the writ petitioners owned a part of the land, which was the subject matter of the common award. Some of the land owners approached the Sub Court, Dharmapuri in LAOP No.108 to 116 of 1989, seeking for enhancement of compensation. The compensation was accordingly enhanced and the benefit was granted to them, vide

order dated 15th September, 1995. The compensation was enhanced to a sum of Rs.240/- per cent, besides interest at the rate of 12% per annum from the date of Section 4(1) notification, i.e., 22nd August, 1984 till passing of the award dated 24th December 1986. Subsequently, additional market value was calculated at Rs.4,221/- and solatium was fixed at Rs.5730/-.

3 The present petitioners, who were the owners of a part of the land under the same award, approached the Collector subsequently, seeking for the same relief. The Collector, by order dated 30th August, 1999, dismissed the same on the ground that the application was not made within the specified time as prescribed under Section 28-A of the Act. Thus, the present writ petition was filed.

4 The learned Single Judge, analysing the facts of the case, particularly when the issuance of notice under Section 4 (1) of the Act is common and the award is also common, whereunder the land was acquired, came to the conclusion that no useful purpose would be served by remitting back the matter to the Collector for reconsideration of the market value and accordingly directed the authorities concerned to grant the same benefit to other similarly situated land owners.

5 The learned counsel appearing for the State appellant submits that the writ petitioners / respondents herein have accepted the compensation without any protest and also had not availed the statutory remedy of approaching the authority concerned under the provisions of Section 28-A of the Act within the statutory period. Thus, they are not entitled to the same benefit.

6 We have examined the facts from all angles. Indisputably, the writ petitioners/ respondents herein were deprived of their property along with other persons and their lands were acquired under the same award. Some landlords, being aware of the statutory provision, whereunder they were entitled to seek higher compensation, took recourse to the statutory forum and were awarded higher compensation. The present petitioners could not avail the same. This may not be a case of acquiescence as the petitioners are poor villagers and they have been deprived of their property. The actual market value of the area in question has been determined by the competent authority under the provisions of the Act. Thus, they are entitled to the same amount under equitable consideration. At this stage, if the delay in preferring the application under Section 28-A of the Act is condoned and the matter is remitted back to the authority concerned for fresh adjudication, that may invite unnecessary delay. Thus, the learned Single Judge has rightly considered of awarding the same compensation without considering the technical objection raised by the appellant herein.

7 For the reasons and analysis mentioned herein-above, we do not find any merit in the appeal. Accordingly, the writ appeal is dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

vvk

To

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Dharmapuri.
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- 6.The Principal Secretary,
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Chennai-600 005.

+1 cc to Mr.R.N.Amarnath, Advocate, sr.61007

ug co
kra 15.12.2015

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