

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.06.2015

CORAM:-

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.15787 of 2015

- 1.Dhanalakshmi
- 2.Chandramathi
- 3.K.Shanmugasundaram

... Petitioners

- Vs -

- 1.The District Collector,
Erode District,
Erode 638 011
- 2.The Revenue Divisional Officer,
Erode, Erode District.
- 3.The Special Tahsildar,
Land Acquisition Project
Neighbourhood Scheme,
Erode 638-009.
- 4.The Executive Engineer,
Erode Housing Unit,
TNHB, Erode.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing writ of mandamus directing the respondents to re-determine the award passed in L.A.No.3 of 1989 in Award No.2 of 1994 to our lands in resurvey 761/6 and enhance the award amount to Rs.20/- per square feet in consonance with the order dated 01.02.2013 made in Civil Appeal No.905/2013 (SLP (c) No.12189 of 2012) on the file of the Hon'ble Supreme Court of India.

Petitioner : Mr.M.Guruprasad

For Respondents : Mr.RM.Muthukumar,
Government Advocate for R1 to R3
Mr.V.Anandamurthy,
Standing Counsel for TNEB for R4

ORDER

By consent, the writ petition itself is taken up for final disposal.

2. The petitioners claim that they are the legal heirs of one late Komarasamy Gounder and they own land along with one Palaniammal in R.S.No.761/6 at Erode Village, measuring to an extent of 0.18 Hectares. The said land was acquired for the purpose of neighbourhood scheme in order to construct houses by the Tamil Nadu Housing Board. According to the petitioners, the land measuring to a total extent of 11.71.5 Hectares were acquired for the above said purpose and the scheme was also implemented.

3. The petitioners would further state that the Special Tahsildar has passed an award in Award No.2 of 1994 dated 10.06.1994 fixing a sum of Rs.37500/- per acre towards compensation. The Special Tahsildar has also made a reference under Section 30 of the Land Acquisition Act to the learned Subordinate Judge for apportionment of compensation and the learned I Additional Subordinate Judge, Erode, in turn, took the reference on file in L.A.O.P.No.1 of 2002. Thereafter, the said LAOP case was transferred to the file of the learned Additional District Judge, Fast Track Court No.I, Erode for disposal. The said Court, by order and decree dated 31.12.2013, allotted 2/3rd share jointly to the petitioners and their mother in the compensation in respect of the land in question measuring to an extent of 0.40 Acres out of 0.45 Acres comprised in R.S.No.761/6 and also allotted 2/3rd share jointly as per clause 5 of the order and decree to the petitioners and their mother in the compensation in respect of a portion of land measuring to an extent of 2.5 cents of land comprised in the above said Resurvey Number. Some of the claimants aggrieved by the Award passed by the Special Tahsildar, have made a request to the Special Tahsildar for enhancement of compensation. Accordingly the Special Tahsildar made a reference under Section 18 of The Land Acquisition to the court. The said reference was taken on file in LAOP No.22 of 20024 by the learned I Additional Sub Judge, Erode. By order and decree dated 07.08.2006, the learned Additional Sub Judge enhanced the compensation to Rs.20/- per square feet. Aggrieved by the order and decree of the learned Additional Sub Judge, Erode, the State preferred an appeal in A.S.No.399 of 2007 and this court by order dated 02.03.2009 reduced the compensation to Rs.8/- per square feet. Aggrieved by the said judgement and decree, the claimants preferred SLP (c) No.12189 of 2012 before the Hon'ble Supreme court and the Hon'ble Supreme Court by order dated 01.02.2013 allowed the Special Leave Petition and set aside the decree and judgement of this court and restored the order and decree passed by the reference court.

4. In the mean while, according to the petitioners, immediately after the order and decree passed by the reference court, they submitted an application under Section 28(A) of the Land Acquisition Act, 1894 seeking redetermination of the compensation in terms of the order passed by the reference court. Thereafter, according to the petitioners, they also submitted a representation on 28.10.2013 to the 1st respondent praying for disposal of their application under Section 28-A of the Land Acquisition Act as per the order passed by the Hon'ble Supreme Court in SLP (C)No.12189 of 2012. Since the

petitioners have not been favoured with any response, they have come up with this writ petition.

5. Heard Mr.M.Guruprasad, the learned counsel appearing for the petitioner and Mr.RM.Muthukumar, the learned Government Advocate who accepts notice for the respondents 1 to 3 and Mr.V.Anandamoorthy, the learned standing counsel who accepts notice for the 4th respondent.

6. This court, taking into consideration of the limited scope of the prayer sought for by the petitioner and without going into the merits of the case, directs the 1st respondent to consider the application filed by the petitioner seeking redetermination of the compensation under Section 28-A of the Land Acquisition Act, 1894 in accordance with law and to pass appropriate orders on the same within a period of twelve weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioners.

7. This writ petition is, accordingly, disposed of. Consequently, connected MP is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

kmk

To

1.The District Collector, Erode District, Erode 638 001.

2.The Revenue Divisional Officer, Erode, Erode District.

3.The Special Tahsildar,
Land Acquisition Project
Neighbourhood Scheme,
Erode 638 009.

4.The Executive Engineer,
Erode Housing Unit,
TNHB, Erode.

1 cc to Mr.M.Gruruprasad , Advocate Sr.No.26775

1 cc to Government Pleader.Sr.No.26656

W.P.No.15787 of 2015

ad(co)

pmk.17.6.2015