

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2015

Date of Reserving the Order	Date of Pronouncing the Order
06.11.2015	27.11.2015

Coram

The Hon'ble Mr. Justice T.S. SIVAGNANAM

W.P.Nos.21802, 21803 & 22152 to 22154 of 2013

M.Ambikabathi ...Petitioner in W.P.21802/13

K.V.Kunjanmole ...Petitioner in W.P.21803/13

1.D.Ellammal
2.D.Amudhamozhi
3.D.Angaiyarkanni
4.D.Verkanni
5.D.Kumaragurudoss
6.D.Nagakumar ...Petitioners in W.P.22152/13

1.A.Gunasekaran
2.A.Rangabashyam
3.A.Malliga
4.A.Saroja
5.A.Ravathi
6.A.Padmavathi
7.A.Puspha ...Petitioners in W.P.22153/13

1.K.Indrarani
2.K.Raja
3.K.Elumalai ...Petitioners in W.P.22154/13

Vs.

1. The District Collector,
Kancheepuram District,
Kancheepuram.

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2. The Managing Director,
Tamil Nadu Housing Board,
Chennai - 600 035.

3. The Special Tahsildar,
Tamil Nadu Housing Board,
Chennai - 600 035.

...Respondents in all W.Ps

Common Prayer :-Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus, to direct the second respondent to pay the enhanced amount of Rs.4600/-, per cent as per the proceedings by the first respondent in Nka.357/2006/AF2, dated 14.06.2007, 16.06.2007, 16.06.2007 to the petitioners as per the representations dated 18.04.2011, 18.04.2011, 18.02.2011, 18.02.2011 & 18.04.2011 respectively.

For petitioner : Mr.M.Rajasekar

For Respondents : Mr.R.Rajeswaran
Spl.,G.P., for RR1&3

Mr.B.Vivekavannan for R2

C O M M O N O R D E R

In all these Writ Petitions, the petitioners have sought for a direction upon the second respondent to pay enhanced compensation amount of Rs.4600/- per cent, in terms of the proceedings of the second respondent dated 14.06.2007 and 16.06.2007, by considering the petitioners' representations dated 18.04.2011 and 18.02.2011. The prayer sought for in all the Writ Petitions are identical and hence, they were heard together and are disposed of by this common order.

2. The petitioners are owners of the various extent of land which were subject matter of acquisition under the provisions of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act'). The notification under Section 4(1) of the Act was issued on 02.07.1990, for a Housing Scheme developed by the Tamil Nadu Housing Board called the 'Sholinganallur Neighbourhood Scheme'. The award was passed by the third respondent fixing compensation of Rs.500/- per cent. Similarly

placed persons as that of the petitioners herein sought for reference to the Civil Court claiming enhanced compensation and the Sub-Court, Poonamalle in LAOP No.426 of 1995, etc., batch enhanced the compensation from Rs.500/- per cent to Rs.10,000/- per cent. The respondent preferred appeal before this Court in A.S.No.711 of 1995, etc batch and this Court by judgment dated 18.09.2003, reduced the compensation amount from Rs.10,000/- per cent to Rs.4600/- per cent. The second respondent Board accepted the judgment and passed a resolution to the said effect in resolution No.806, dated 24.02.2004. The petitioners sent representation requesting that they may be paid enhanced compensation at the rate of Rs.4600/- per cent after adjusting the amount of Rs.500/- per cent. The first respondent by proceedings, dated 16.06.2009, directed the petitioners' representations to be considered and they be paid compensation at the rate of Rs.4600/- per cent. The petitioners have approached this Court by way of these Writ Petitions, since the second and third respondents have not paid the enhanced compensation, inspite of the order of the first respondent, dated 16.06.2009 and sought for issuance of appropriate direction.

3. The learned counsel appearing for the petitioners after elaborately referring to the factual matrix referred to the consolidated typed set of papers containing the awards passed by the Reference Court, the application made under Section 28A of the Act, dated 08.08.2006, 25.10.2006, 17.08.2006 and 28.08.2006 respectively, the acknowledgements given by the first respondent and the order of the first respondent, dated 16.06.2009, and the representation given by the petitioners individually thereafter. With the above facts, the learned counsel for the petitioners prayed for appropriate directions to the respondents to pay the enhanced compensation.

4. The learned counsel appearing for the second respondent by referring to the counter affidavit submitted that the compensation payable to the land owners was fixed in three awards namely Award No.1 of 1993, dated 15.06.1993; Award No.2 of 1993, dated 23.06.1993; Award No.3 of 1993, dated 29.03.1993. It is submitted that the compensation so awarded by the Land Acquisition Officer has been deposited into the Civil Court namely, Sub-Court, Poonamalle. In the counter affidavit, it has been admitted by the second respondent that the second respondent has accepted the judgment and decree of this Court fixing the compensation at Rs.4600/- per cent in A.S.No.711 of 1993, etc batch, dated 18.09.2003. It is further submitted that

pursuant to the decision to accept the rate of compensation at Rs.4600/- per cent, a batch of cases pending before the Reference Court were settled before the Lok Adalat and enhanced compensation was paid. The learned counsel for the second respondent submitted that the petitioners are put to strict proof to prove that they filed application under Section 28A of the Act well within the time as contemplated under the said provision. Therefore, it is submitted that the petitioners are not entitled for enhanced compensation, as they have not filed application under Section 28A of the Act within the time prescribed. Further, it is submitted that the petitioners claimed enhanced compensation based on Lok Adalat Award and a Lok Adalat is not a Court as defined under the Land Acquisition Act and therefore, enhanced compensation cannot be paid on the strength of the award passed by the Lok Adalat. It is submitted that the first respondent has mistakenly passed the order dated 16.06.2009 and that too without conducting any enquiry, the requisitioning body namely the Tamil Nadu Housing Board was not given any opportunity of hearing before passing such order. Further, it is submitted that the District Collector has been requested by the second respondent Board to withdraw the proceedings issued by him dated 16.06.2009. On the above submissions, the learned counsel appearing for the second respondent submitted that the prayer sought for is liable to be rejected.

5. Though the respondents 1 and 3 have entered appearance, no separate counter affidavit has been filed by the respondents 1 and 3.

6. The dispute in the instant case lies in a very narrow compass. It is not disputed by the respondents that the compensation for the lands acquired for the project of the Housing Board had been fixed at Rs.4600/- per cent by judgment of this Court and the said judgment has been accepted by the second respondent Board and compensation has been disbursed to other similarly placed land owners. That apart, the benefit of the judgment was extended to other cases which were pending before the Reference Court and the Board settled the claims before the Lok Adalat at Rs.4600/- per cent. Therefore, it would be too late for the second respondent to state that they are not agreeable to pay a sum of Rs.4600/- as compensation merely because the petitioners made a reference to an award in the Lok Adalat. This submission is baseless, since the Lok Adalat settlement itself was subsequent to the decision of this Court in A.S.No.711 of 1999, etc., batch, wherein this court by

judgment and decree dated 18.09.2003, had fixed the compensation at Rs.4600/- per cent. Thus, the quantum of compensation at Rs.4600/- as fixed by this Court and agreed to by the second respondent before the Lok Adalat binds the second respondent.

7. Having held so, the only issue to be considered is as to whether the petitioners are entitled to the said amount as enhanced compensation. The only objection raised by the second respondent is by stating that the application filed by the petitioners under Section 28A of the Land Acquisition Act is beyond the time limit prescribed under the said provision. This contention does not merit acceptance for the simple reason that the application was entertained by the competent authority namely, the District Collector and the District Collector has passed an order on 16.06.2009, fixing the compensation payable to the petitioners at Rs.4600/- per cent. This order has been forwarded to the second respondent Board in 2009, even as per the counter affidavit, the said proceedings continuous to remain in force, though a plea is raised by the second respondent stating that the Board has requested the District Collector to withdraw the proceedings. However, it is not known as to under which provision of law, the first respondent can withdraw such an order. The statute does not confer a power of review on the District Collector who has exercised power under Section 28A of the Act.

8. Admittedly, the second respondent has not challenged the said order before the appropriate forum. In such circumstances, the amount of compensation fixed by the District Collector exercising jurisdiction under Section 28A of the Act binds the second respondent.

9. In the result, the Writ Petitions are allowed and the second respondent is directed to pay enhanced compensation at the rate of Rs.4600/- per cent to the petitioners taking into consideration the proceedings of the first respondent, dated 16.06.2009, in and by which, the first respondent has fixed the petitioners' entitlement at Rs.4600/- per cent exercising power under Section 28A of the Act. The enhanced compensation shall be disbursed and paid to the petitioners within a period of four months from the date of receipt of a copy of this order and if any amount has already been paid or deposited, the same shall be deducted from the amount payable and the remaining amount shall be paid to the petitioners. It is made clear that this direction has been issued in the light of the fact that the order dated 16.06.2009, passed by the first respondent remains

intact and there is no challenge by the second respondent to the fixation of Rs.4600/- per cent as fixed by this Court in batch of appeals, which judgment has been accepted by the second respondent board and enhanced compensation has been paid to other similarly placed erstwhile land owners. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

pbn

To

1. The District Collector,
Kancheepuram District,
Kancheepuram.
2. The Managing Director,
Tamil Nadu Housing Board,
Chennai - 600 035.
3. The Special Tahsildar,
Tamil Nadu Housing Board,
Chennai - 600 035.

+1cc to Mr.B.Vivekavannan, Advocate, S.R.No.64820
+1cc to Mr.M.Rajasekar, Advocate, S.R.No.64669
+1cc to the Government Pleader, S.R.No.64914
+4cc to M/S. M.Raja Sekhar, Advocate sr.65288[21/12/2015]

W.P.Nos.21802, 21803 &
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SAI(CO)
CA(10/12/2015)

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