

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.33702 of 2002

- 1.S.Tamilselvan
- 2.C.Marimuthu
- 3.A.Josephin Mary
- 4.G.Jagadeesan
- 5.R.Thangamuthu
- 6.P.Thangaraj
- 7.L.Bhimbagadur
- 8.M.Govindaraj
- 9.M.Sekar Maistry
- 10.S.Musthafa
- 11.K.Arjunan
- 12.T.Chellamuthu
- 13.Kulandai Jayaraj
- 14.S.Marappan
- 15.K.Sivakami
- 16.P.Kandasami
- 17.P.Gunasekaran
- 18.T.Vijayalakshmi

... Petitioners

Versus

- 1.The District Collector,
Erode District at
Erode.

- 2.The Special Tahsildar,
Land Acquisition,
Neighbourhood Scheme,
Surampatty Fourt Road,
Surampatty, Erode.

- 3.The Executive Engineer & Administration Officer
Erode Housing Unit,
Tamil Nadu Housing Board,
Erode - 638 009.

(R3-impleaded as per order dated 11.02.2006
in WPMP No.3095/2006)

.. Respondents

Writ petition filed under Article 226 of the Constitution

of India praying to issue a Writ of Mandamus, directing the respondents to refer the Award No.1/98 in so far relates to S./No.504/1-4 in Erode 'C' Village, Erode Taluk and District to the competent civil court as per under Sec.18 of the Land Acquisition Act.

For Petitioners : Mr.C.Prakasam
For Respondents 1 & 2 : Mr.S.Diwakar
Additional Government Pleader
For Respondent 3 : Mr.R.V.Babu

ORDER

Heard the learned counsel on both the sides and perused the materials placed on record.

2. The petitioner seeks for issuance of Writ of Mandamus, directing the respondents to refer the Award No.1/98, insofar as it relates to the property comprised in S.No.504/1-4 in Erode 'C' Village, Erode Taluk and District, to the competent Civil Court as per Section 18 of the Land Acquisition Act.

3. It is submitted by the learned counsel appearing for the petitioner that the issued raised in this Writ Petition is covered by an earlier order passed by this Court in W.P.No.10885 of 2001 dated 11.06.2001, in which also, an identical relief was sought for in respect of same award, but in respect of another Survey No., and this Court ordered the Writ Petition, by passing following order :

" 3.Even as per the Award, it is stated that the Award came to be passed in the absence of the erstwhile owner. According to the petitioner, he was the subsequent purchaser of the land and he did not have the required notice under Section 12(1) of the Act. In such circumstances, having regard to the limited prayer seeking only for a reference under Section 18 of the Act, I am of the view, in the interest of justice, the petitioner should be permitted to have his claim worked out before the Tribunal with regard to the rate of compensation which the to be paid to the land that was acquired under the impugned proceedings. In that view, the writ petition is allowed and there will be a direction to the first respondent to make a reference to the

appropriate Tribunal under Section 18 of the Act as against the Award in A.No.1/98 within one month from the date of receipt of copy of this order. The writ petition is ordered on the above terms. No costs. Consequently, connected W.M.P. is closed."

4. The learned Additional Government Pleader for respondents 1 and 2, on perusal of the earlier order passed by this Court and the averments in the affidavit filed in support of the Writ Petition, does not dispute the position that the issue involved herein is covered by the earlier decision (as mentioned supra).

5. In the light of the above, the petitioner also is entitled to the benefits of the same order. Accordingly, the Writ Petition is ordered and there will be a direction to the first respondent/District Collector to refer the matter with regard to Award No.1/98, in respect of the land in S.No.504/1-4 in Erode 'C' Village, Erode Taluk and District before the Competent Civil Court, as per the provisions contemplated under Section 18 of the Land Acquisition Act within a period of two months from the date of receipt of a copy of this order. No costs.

sd/
ASSISTANT REGISTRAR (CS-IV)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

ds

To:

1.The District Collector,
Erode District at
Erode.

2.The Special Tahsildar,
Land Acquisition,
Neighbourhood Scheme,
Surampatty Fourt Road,
Surampatty, Erode.

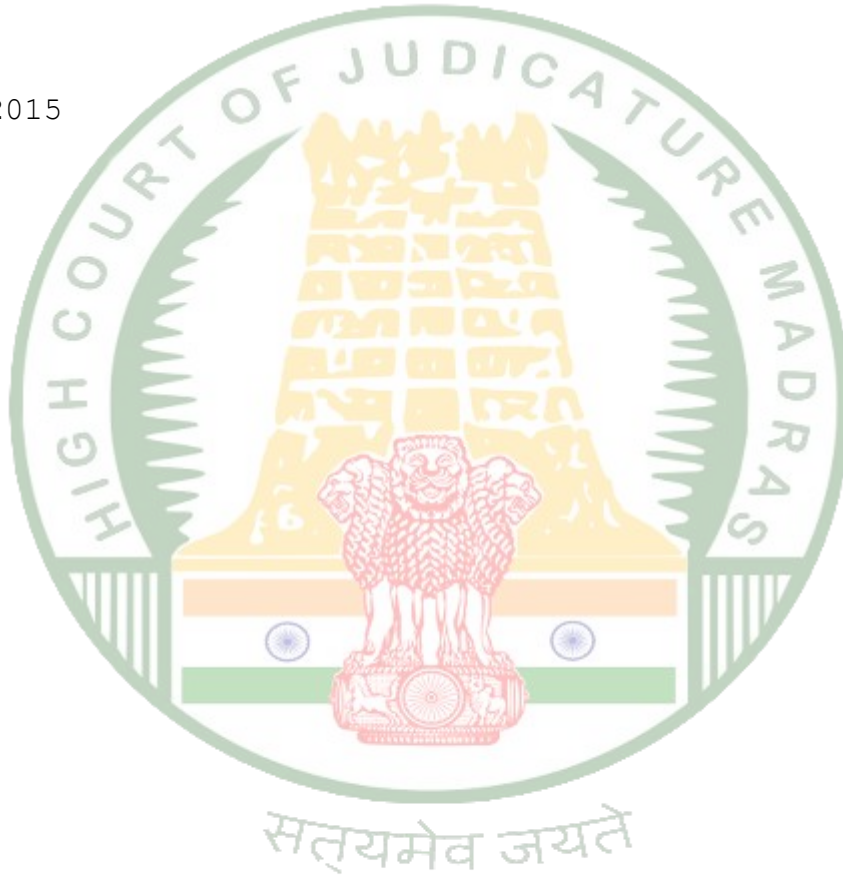
3.The Executive Engineer &
Administration Officer
Erode Housing Unit,

Tamil Nadu Housing Board,
Erode - 638 009.

+1 CC to MR.C.Prakasam Advocate. SR.NO. 61607
+1 CC to MR.R.V.Babu Advocate. SR.NO. 61649
+ 1 cc to The Govt.Pleader, Sr 61794 (8/1/16)

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AR-IV
JD 23/11/2015



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