

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.NO.12142 OF 2016

Sivaprakasam

.. Petitioner

Versus

1.The District Collector
Kancheepuram District
Kancheepuram.

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

3.The Special Tahsildar (LA) 5
Tamil Nadu Housing Board
Chennai - 600 035.

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, to direct the second respondent to pay the enhanced amount of Rs.4,600/- per cent as per the proceedings by the first respondent in Na.Ka.357/2006/F2 dated 16.06.2009 to the petitioner as per the representation dated 10.02.2016.

For Petitioner : Mr.S.Arivazhagan
For Respondent-1 : Mr.R.Rajeswaran
Special Government Pleader
For Respondents 2&3: Mr.B.Vivekavannan

O R D E R

Heard Mr.S.Arivazhagan, learned counsel appearing for the petitioner and Mr.R.Rajeswaran, learned Special Government Pleader for the first respondent and Mr.B.Vivekavannan, who accepts notice for the respondents 2 and 3.

2.By consent, the writ petition is taken up for final disposal at the admission stage itself.

3.The petitioner seeks for a direction to the second respondent to pay the enhanced amount of Rs.4,600/- per cent as per the proceedings of the first respondent in Na.Ka.357/2006/F2

dated 16.06.2009 to the petitioner, as per his representation dated 10.02.2016.

4.The issue involved in this writ petition is squarely covered by the common order passed by this Court in W.P.Nos.21802 of 2013 etc., batch, dated 27.11.2015. In the said writ petitions also, the petitioners therein claimed for an identical relief, as in this case, requesting for payment of enhanced compensation at the rate of Rs.4,600/- per cent, in terms of the proceedings dated 14.06.2007 and 16.06.2007. This Court after hearing the parties, allowed those writ petitions, by a common order dated 27.11.2015. The operative portion of the said order reads as follows:

"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."

5. Thus, following the above order, this writ petition is allowed with the above direction. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

TK

To

1. The District Collector
Kancheepuram District Kancheepuram.
2. The Managing Director
Tamil Nadu Housing Board Chennai - 600 035.
3. The Special Tahsildar (LA) 5
Tamil Nadu Housing Board Chennai - 600 035.

+1cc to Mr.S. Arivazhagan, Advocate, S.R.No.20002
+1cc to Mr.B. Vivekavannan, Advocate, S.R.No.20235
+1cc to the Government Pleader, S.R.No.20520

KJI (CO)
EU (26/04/2016)

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