

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.07.2016

CORAM:

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

Review Application No.56 of 2016  
in A.S.996 of 1986

K.Nataraja Reddiar

N.Sarjanammal

1.J.Sulochaana

2.N.Nandakumar

3.N.Mohan Kumar

4.D.Saraswathi

5.P.Sathiya Bama

6.S.Kanchana

7.N.Barani Kumar

... Review Applicants/Appellants

Vs.

The Special Tahsildar,  
Land Acquisition - II,  
Tamil Nadu Housing Board Schemes,  
Nandanam, Chennai - 35.

... Respondents/Respondents

Review Application is filed under Order 47, Rule 1 read with Section 114 of Civil Procedure Code against the judgment and decree dated 21.04.2009 made in A.S.No.996 of 1986.

For Review Applicants : Mr.M.S.Subramanian

For Respondent : Mr.P.Gunasekaran,  
Additional Government Pleader

### J U D G M E N T

This Court partly allowed the Appeal in A.S.No.996 of 1986 by its judgment dated 21.04.2009 by enhancing the value of the acquired land from Rs.654/- per cent to Rs.760/- per cent. This Court also found that the appellant/claimant is entitled to interest on the market value of the land acquired from him at 9% per annum for a period of one year from the date of taking possession, thereafter, at 15% per annum till the date of deposit of the excess amount in Court. However, this Court declined to grant interest on solatium and additional amount under Section 23(1)(A) of the Land Acquisition Act.

2.Now, the claimants have filed the above Review Application stating that there is an error apparent on the fact of the record warranting interference in the Review Application for not granting 30% solatium, 12% additional amount on the market value from the date of Section 4(1) Notification to the date of Award under Section 23(1)(A) of the Act and interest at 9% on the solatium and additional amount.

3.Mr.M.S.Subramanian, learned counsel appearing for the claimants, in support of his contention, relied upon the judgment reported in **(2001) 7 Supreme Court Cases 211 [Sunder Vs. Union of India]** wherein the Hon'ble Supreme Court held as follows:

“23.In deciding the question as to what amount would bear

interest under Section 34 of the Act, a peep into Section 31 (1) of the Act would be advantageous. That sub-section says:

“31.(1)On making an award under Section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section.”

The remaining sub-sections in that provision only deal with the contingencies in which the Collector has to deposit the amount instead of paying it to the party concerned. It is the legal obligation of the Collector to pay “the compensation awarded by him” to the party entitled thereto. We make it clear that the compensation awarded would include not only the total sum arrived at as per sub-section (1) of Section 23 but the remaining sub-sections thereof as well. It is thus clear from Section 34 that the expression “awarded amount” would mean the amount of compensation worked out in accordance with the provisions contained in Section 23, including all the sub-sections thereof.”

From the above judgment it is clear that the expression “awarded amount” under Section 34 would mean the amount of compensation worked out in accordance with the provisions contained in Section 23, including all the sub-sections thereof. The judgment relied upon by the learned counsel appearing for the claimants squarely applies to the facts and circumstances of the present case.

4.Mr.P.Gunasekaran, learned Additional Government Pleader appearing for the respondent fairly submitted that following the ratio laid down by the Hon'ble Supreme Court, the claimants are entitled to interest on all three heads (i.e.) market value, solatium and additional amount. However, this Court had granted interest only on market value and has not granted interest on solatium and additional amount. Further, the learned Additional Government Pleader submitted that the claimants are entitled to 30% solatium and 12% additional amount on the market value from the date of Section 4 (1) Notification to the date of Award under Section 23(1)(A) of the Land Acquisition Act.

5.In view of the submissions made by the learned counsel on either side, the judgment and decree passed in A.S.No.996 of 1986 are modified and by consent of both sides, the following order is passed:

Instead of the existing paragraph-13, the following may be incorporated as paragraph-13:

“13.Hence, on the basis of the common order made in A.S.Nos.993 to 995 of 1988 dated 18.11.1998, the following directions are issued to dispose of the above appeal:

(i)The market value of the land acquired is fixed at Rs.760/- per cent instead of Rs.654/- per cent as decided by the Sub Court;

(ii)The appellants are entitled to 30% solatium on the

enhanced compensation on the market value of the acquired land;

(iii)The appellants are entitled to 12% additional amount on the market value from the date of Section 4(1) Notification to the date of Award under Section 23(1)(A) of the Land Acquisition Act;

(iv)The appellants are entitled to interest on the market value, solatium and additional amount of the land acquired at 9% per annum for a period of one year from the date of taking possession, thereafter, at 15% per annum till the date of deposit of the excess amount in Court;

(v)Excepting the above, the Award granted by the Sub Court, in all other aspects is sustainable and consequently, the same is upheld.

6.In other aspects, the judgment and decree passed by this Court in A.S.No.996 of 1986 shall remain unaltered.

7.With these observations, the Revision Application is disposed of. No costs.

Index : No  
Internet : Yes  
va

**21.07.2016**

**Note: Registry is directed to issue the amended copy of the judgment and decree to both sides.**

**M. DURAISWAMY,J.  
va**

**Review Application No.56 of 2016  
in A.S.996 of 1986  
(2/2)**

**21.07.2016**