

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:03.08.2016

CORAM

THE HON'BLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.26826 of 2016

1 P.K.Kuppusamy [Petitioners]
2 P.V.Subramani
3 S.Kolanda Gounder
4 S.Ponnusamy
5 M.Subbarayan
6 Palaniammal @ Pappayee
7 Palanivel
8 K.Subbarayan
9 K.Ramasamy
10 Mohan

Vs

1 The District Collector
Namakkal
O/o.The District Collector
Thummankurichi Post
Namakkal Taluk and District
2 The Revenue Divisional Officer
Namakkal Namakkal Taluk and District [Respondents]

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the 1st respondent to consider our representations dated 19.5.2014 20.5.2014 23.5.2014 23.6.2014 and 4.7.2014 and pass fresh awards re determining the compensation in accordance with Section 28A of the Land Acquisition Act as per the Judgments of the Learned Additional District Judge Namakkal in L.A.O.P Nos.5/2007 to 173/2007 as confirmed by this High Court in A.S. Nos.110 to 278/2015.

For Petitioners

Mr.LSM.Hasan Fizal for
Mr.J.Stanlin

For Respondents

: Mr.V.Jayaprakash Narayanan,
Special Government Pleader

ORDER

Mr.V.Jayaprakash Narayanan, learned Special Government Pleader takes notice on behalf of the respondents and with the consent of the learned counsel on either side, the main writ petition itself is taken up for final disposal.

2. The writ petitioners have sought for a writ of mandamus directing the respondents to consider their representations dated 19.5.2014, 20.5.2014, 23.5.2014, 23.6.2014 and 4.7.2014 and pass fresh awards re determining the compensation in accordance with Section 28A of the Land Acquisition Act, as per the Judgment of the Learned Additional District Judge, Namakkal in L.A.O.P Nos.5/2007 to 173/2007 as confirmed by this Court in A.S. Nos.110 to 278/2015, wherein, higher compensation was determined for the lands acquired from the similarly placed persons.

3. Heard the learned counsel for the petitioners and the learned Special Government Pleaders appearing for the respondents.

4.1 The petitioners lands were sought to be acquired by virtue of 4(1) Notification dated 4.6.98 and the same was published in the locality on 22.6.1998. The details of the lands acquired from each of the petitioners are as follows:-

Sl.No	Owners Name	Survey Nos.	Extent	Relevant LAOP No.	Compensation per sq.ft.
1	P.K.Kupusamy	6/6 7/2	0.36.0 Hect 0.35.0 Hect	113/2007	Rs.35/-
2	P.V.Subramani	16/1	0.65.0 Hect	67/2007	Rs.35/-
3	S.Kolanda Gounder S.Ponnusamy	11/1	0.77.0 Hect	71/2007	Rs.35/-
4	M.Subbarayan	375/1 E	0.06.5	50/2007	Rs.35/-
5	Palaniammal @ Pappayee	376/6 391/2 A 395/1	0.40.0 Hect 0.29.5 Hect 1.03.0 Hect	12/2007	Rs.35/-
6	Palanivel	10/9 10/10 10/13	0.015 Hect 0.19.0 Hect 0.51.5 Hect	101/2007	Rs.35/-

Sl.No	Owners Name	Survey Nos.	Extent	Relevant LAOP No.	Compensation per sq.ft.
7	K.Subbarayan	17/3C 18/3	0.76.1/2 cent 0.05.0 Hect (1.3 share)	73/2007	Rs.35/-
8	K.Ramasamy	353/1	1.32.0 Hect	51/2007	Rs.26/-
9	Mohan	6/2	0.32.0 Hect	98/2007	Rs.35/-

Since the acquisition was under emergency provisions under Section 17, enquiry under Section 5A of the Land Acquisition Act, 1891 (hereinafter referred to as "the Act") was dispensed with. The award enquiry was held on various dates and the land acquisition officer passed awards in Award Nos.1 to 11 of 1998 on 17.03.1999 and 25.05.1999. A sum of Rs.61,728/- was fixed as compensation per hectare. As the compensation fixed was very low, the petitioners sought for reference under Section 18 of the Act. It is stated in the affidavit filed in support of this writ petition that the said officer did not make any reference under Section 18 of the Act.

4.2 In the meanwhile, similarly placed persons whose properties are covered under the very same 4(1) notification, for whom reference was made, the matters were numbered as LAOP Nos.5/2007 to 173 of 2007, which were disposed of on 12.02.2014 by the learned District Magistrate, Namakkal, fixing the compensation at Rs.35/- per sq.ft. for the lands abutting the main road and Rs.26/- per sq.ft. for the interior lands.

4.3 The petitioners, after knowing the fact that the higher compensation amount was fixed to the similarly situated persons, made representations on 19.5.2014, 20.5.2014, 23.5.2014, 23.6.2014 and 4.7.2014, seeking re-fixation of the compensation of the award amount on par with the compensation fixed in LAOP Nos.5/2007 to 173 of 2007 under Section 28-A of the Act. There was no response from the respondents.

4.4. In the meanwhile, the Land Acquisition Officer, filed appeals in A.S.No.110 to 278 of 2015 before this Court, challenging the enhancement of the award amount granted by the learned District Magistrate, Namakkal on 12.02.2014 in LAOP Nos.5/2007 to 173 of 2007. The said appeals were dismissed, confirming the compensation fixed by the learned District Magistrate, Namakkal on 17.08.2015. In view of the same, the petitioners have approached this Court by way of this writ petition.

5. When the very same 4(1) notification covers the property of the petitioners as well as the properties covered in A.S.No.110 to 278 of 2015, in and by which, this Court has confirmed the enhanced compensation already granted, the petitioners are entitled to get higher compensation as per Section 28-A of the Act.

6. Taking into consideration the above provision of law, the 1st respondent is directed to consider the representations of the petitioners dated 19.5.2014 20.5.2014 23.5.2014 23.6.2014 and 4.7.2014 and pass fresh award as per the amount fixed by this Court in the Judgment passed in A.S.Nos.110 to 278 of 2015 dated 12.02.2014, within a period of twelve weeks from the date of receipt of a copy of this order.

The writ petition is allowed on the above terms. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1 The District Collector
Namakkal
O/o.The District Collector
Thummankurichi Post
Namakkal Taluk and District

2 The Revenue Divisional Officer
Namakkal Namakkal Taluk and District

9 ccs to Mr.J.Stanlin, Advocate, sr.44070
1 cc to Government Pleader, sr.43903

nm co
kra 17.08.2016

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