

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:15.02.2016

Coram

THE HONOURABLE Mr. JUSTICE SATISH K.AGNIHOTRI
AND
THE HONOURABLE Mr. JUSTICE M.VENUGOPAL

W.A.No.142 of 2016
and
C.M.P.No.1874 of 2016

- 1.The District Collector,
Dharmapuri District,
Dharmapuri.
- 2.The District Collector,
Krishnagiri District,
Krishnagiri.
- 3.The Revenue Divisional Officer/LAO,
O/o. The Revenue Divisional Office,
Krishnagiri.
- 4.The Executive Engineer,
Public Works Department,
(Water Resources Organisation),
Mel Pennar Vadi Nila Uttakotam.
- 5.The Chief Engineer,
(Water Resources Organisation),
Chepauk, Chennai - 600 005.
- 6.The Principal Secretary,
The Commissioner of Land Administration,
Ezhilagam, Chepauk,
Chennai 600 005.

...Appellants/Respondents

v.

- 1.Dharman
- 2.Rengammal
- 3.Perumal
- 4.V.Elangovan
- 5.V.P.Kamalesan
- 6.Thulasi
- 7.Mangammal
- 8.Perumal

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9.Kuppuraj
10.Samikannau
11.Chellan @ Vediappan
12.M.Ponnusamy
13.Vengaiammal
14.Pappammal
15.Chinnappappa
16.Chinnakannu
17.Lakshmanan
18.Samaynathan
19.V.P.Chinnasamy
20.Anandan
21.Chitra
22.Kuppammal
23.Mecheri

... Respondents/Petitioners

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, against the order of this Court dated 16.04.2015 made in W.P.No.23652 of 2013 with petition praying to writ of Mandamus to call for the records relating to the issue of proceedings of the 1st respondent bearing No. Na. Ka. No.24515/99 T2 dated 30.8.1999 quash the same and direct the respondents herein to disburse the enhanced compensation amount to the petitioners under section 28-A of the Land Acquisition Act 1894 on par with the compensation award in LAOP No.108/1989 to 116/1989 dated 15.9.1995 by the Subordinate Court Dharmapuri

For Appellants : Mrs.A.Sri Jayanthi
Special Government Pleader

For Respondents : Mr.R.Thiyagarajan
Senior Counsel

for Mr.R.N.Amarnath

JUDGMENT

(Judgment of the Court was delivered by M.VENUGOPAL, J.)

The Appellants have focussed the intra-Court Writ Appeal as against the order dated 16.04.2015 in W.P.No.23652 of 2013 passed by the Learned Single Judge.

2.The Learned Single Judge, while passing the impugned order in W.P.No.23652 of 2013 (filed by the Respondents/Writ Petitioners) on 16.04.2015, had allowed the Writ Petition, by quashing the 1st Respondent's (1st Appellant herein) order bearing Na.Ka.No.24515/99 T2, dated 30.08.1999 and directed the Respondents to pay the fair compensation of Rs.240/- per cent along with interest at 12% per annum from the date of

notification under Section 4(1) of the Land Acquisition Act, 1984 till date of payment. Furthermore, the Learned Single Judge was proceeded to observe that the Respondents/ Petitioners are entitled to 30% solatium amount of total compensation and further observed that the additional market value which was calculated at Rs.4,221/- by the Sub Court was also appropriate in the instant case.

3. Being dissatisfied with the order dated 16.04.2015 in W.P.No.23652 of 2013 passed by the Learned Single Judge, the Appellants/Respondents have focussed the present Writ Appeal before this Court basically contending that the Learned Single Judge had failed to take into account for the compensation for the acquired lands was paid to the Respondents (Land owners) and they had received the same without any protest.

4. The Learned Special Government Pleader for the Appellants urges before this Court that the Learned Single Judge should have taken note of a very essential facts that none of the Respondents/ Petitioners had filed petitions under Section 28A of the Land Acquisition Act, 1894 either before the Land Acquisition Officer or to the District Collector claiming an enhanced compensation.

5. It is represented on behalf of the Appellants that the Respondents/Petitioners had not sent the representation to the authorities concerned in time, claiming compensation.

6. In any event, it is the plea of the Appellants that as an afterthought, the Respondents/Petitioners are claiming enhanced compensation, after an inordinate delay of around 30 years.

7. The Learned Special Government Pleader for the Appellants projects an argument that in Law, there is no scope to consider the belated claim of the Respondents/Petitioners for an enhanced compensation.

8. The Learned Senior Counsel for the Respondents submits that the subject matter in issue is squarely covered by the Division Bench Judgment of this Court, dated 05.11.2015, wherein one of us, [SATISH K.AGNIHOTRI, J.] was a Member, in W.A.No.1596 of 2015 (between The District Collector, Dharmapuri and 5 others V. Ganesan @ Nallamara Gounder and 27 others), whereby and whereunder, in paragraph 6, it is observed and held as under:

"6. We have examined the facts from all angles. Indisputably, the writ petitioners/respondents herein were deprived of their property along with other persons and their lands were acquired under the same award. Some landlords, being aware of the statutory provision, whereunder they were

entitled to seek higher compensation, took recourse to the statutory forum and were awarded higher compensation. The present petitioners could not avail the same. This may not be a case of acquiescence as the petitioners are poor villagers and they have been deprived of their property. The actual market value of the area in question has been determined by the competent authority under the provisions of the Act. Thus, they are entitled to the same amount under equitable consideration. At this stage, if the delay in preferring the application under Section 28-A of the Act is condoned and the matter is remitted back to the authority concerned for fresh adjudication, that may invite unnecessary delay. Thus, the learned Single Judge has rightly considered of awarding the same compensation without considering the technical objection raised by the appellant herein."

and ultimately, the Writ Appeal came to be dismissed.

9. Inasmuch as the subject matter in issue is squarely covered by the Division Bench Judgment of this Court in W.A.No.1596 of 2015 dated 05.11.2015 as stated supra, this Court dismisses the present Writ Appeal.

10. In the result, the Writ Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Sgl

To

- 1.The District Collector,
Dharmapuri District,
Dharmapuri.
- 2.The District Collector,
Krishnagiri District,
Krishnagiri.
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Chepauk, Chennai - 600 005.
- 6.The Principal Secretary,
The Commissioner of Land Administration,
Ezhilagam, Chepauk, Chennai 600 005.

+1cc to Mr.Amarnath, Advocate, S.R.No.9482

+1cc to the Government Pleader, S.R.No.9626

MG(CO)
EU(01/03/2016)

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W.A.No.142 of 2016

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