

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2016

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No. 35802 of 2016

J. Raja

..Petitioner

Vs.

1. Union of India,
rep. by the Secretary to Govt.(Rev.),
Government of Pondicherry.
2. The Sub Collector (Rev) -cum-
Land Acquisition Officer (North),
Saram, Puducherry. ..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing the 2nd respondent to dispose of the application filed under Section 28A of the Land Acquisition Act on 22.09.2015.

For Petitioner :: Mr.V. Raghavachari

For Respondents:: Mrs.Reena Iswariya
Addl. Govt. Pleader (Pondicherry)

O R D E R

The petitioner's land comprised in Survey No. 231/1, Oulgaret Revenue Village, Pondicherry, measuring 6455 sq.ft, was acquired along with other properties, owned by different individuals, by Government of Pondicherry, for construction of a swimming pool and a cricket stadium. After acquisition, the Original Authority had fixed the rate per sq.ft at Rs.75/-, which was not the market value at the relevant point of time. Therefore, the petitioner raised objection against the amount fixed. In spite of the objection raised by the petitioner, the Government had paid 80% of the compensation and the balance 20% is yet to be paid.

2. While so, according to the petitioner, another owner, by name, Thiru Kamaraj, aggrieved over the quantum of compensation granted by the Original Authority, had raised objections and sought for reference under Section 18 of the Land Acquisition Act and the petition came to be numbered as L.A.O.P. No. 51 of 2008. The III Additional District Judge, Pondicherry, by award dated 29.07.2015, refixed the compensation at Rs.175/-

per sq.ft together with 30% solatium and 12% additional market value. Payment of interest and other statutory benefits had also been awarded. Since the petitioner's land as well as the said Kamaraj's land were acquired under the very same notification and for the very same purpose, the petitioner submitted an application under Section 28-A of the Land Acquisition Act to the 2nd respondent seeking re-determination of the compensation amount awarded for the petitioner's acquired land in R.S. No. 239/1, to an extent of 6455 sq.ft from Rs.75/- to Rs.175/- with all statutory benefits, as awarded by the III Additional District Judge, Pondicherry, by award dated 29.07.2015, in L.A.O.P. No. 51 of 2008. Since no action has been taken on the application filed by the petitioner, the present writ petition has been filed.

3. Heard Mr.V. Raghavachari, learned counsel for the petitioner and Mrs. Reena Iswariya, learned Additional Government Pleader, who takes notice on behalf of the respondents. At the time of admission itself, the writ petition is taken up for final disposal.

4. A perusal of the award passed in L.A.O.P. No. 51 of 2008 by the learned III Additional District Judge, Pondicherry, on 29.07.2015, would reveal that in respect of one Kamaraj, a similarly placed person, like the petitioner, whose land was also acquired for the very same purpose of construction of swimming pool, cricket stadium and other infrastructure facilities, the price of the land was refixed as Rs.175/- per square feet, thereby enhancing the compensation amount, together with 30% solatium and 12% additional market value from the date of 4(1) notification to the date of award. When a similarly placed person has been granted higher compensation, as per Section 28-A of the Land Acquisition Act, similar treatment has to be given to the petitioner as well.

5. Since the petitioner has already submitted an application dated 22.09.2015 under Section 28-A of the said Act, seeking re-determination of compensation, on par with Kamaraj, the respondents are directed to consider the said application and pass appropriate orders, in the light of the award dated 29.07.2015 passed in L.A.O.P. No. 51 of 2008 by the learned III Additional District Judge, Pondicherry, within a period of eight weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

nv

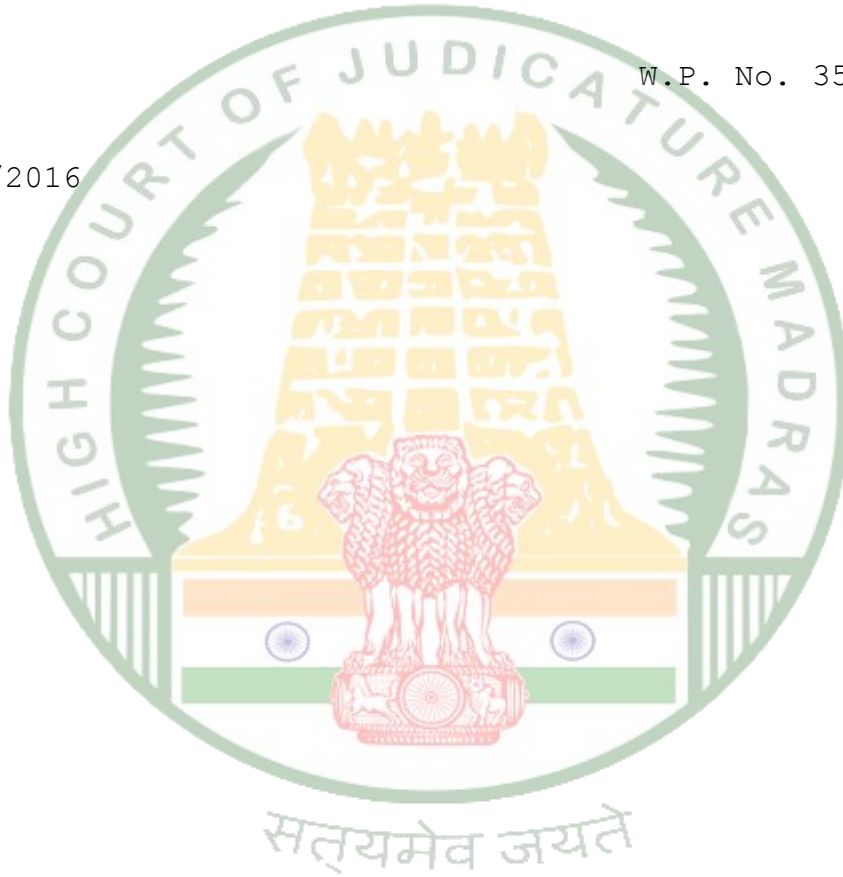
To

1. The Secretary to Govt.(Rev.),
Government of Pondicherry.
2. The Sub Collector (Rev) -cum-
Land Acquisition Officer (North),
Saram, Puducherry.

+1cc to Mr.V.Raghavachari, Advocate Sr.58029
+1cc to Government pleader, Pandy Sr.58156

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SSI (CO)
RVR 12/11/2016



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