

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2017

CORAM

THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**

Review Application Nos.154 to 159/2017

in

A.S.Nos.402/2010 & 564 to 568/2010

1.Murugesan
2.Mani
3.Ramamoorthy
4.Sukumar

..Petitioners/Appellants
in Rev.Apl.No.154/2017
in A.S.No.402/2010

1.Sekar
2.Nellavathi
3.Chandra
4.Muthuvedi
5.Vediyappan
6.Sankar

..Petitioners/Appellants
in Rev.Apl.No.155/2017
A.S.No.564/2010

S.G.Muniraji

.Petitioner/Appellant
in Rev.Apl.No.156/2017
in A.S.No.565/2010

Mrs.Unnamalaimmal

..Petitioner/Appellant
in Rev.Apl.No.157/2017
in A.S.No.566/2010

Anandan

..Petitioner/Appellant
in Rev.Apl.No.158/2017
in A.S.No.567/2010

Anandan

..Petitioner/Appellant

in Rev.Apl.No.159/2017
in A.S.No.568/2010

..Vs..

The Special Tahsildar,
(Land Acquisition),
Revenue Divisional Officer,
Thirupattur,

Vellore District.
..Respondent/Respondent
in (All Review Applications)

Common Prayer : Review Applications filed under Order 47 Rule, 1 Code of Civil Procedure, 1908, R/w 114 of CPC to review the order dated 27.08.2010 passed by this Court in A.S.Nos.402, 564 to 568/2010.

For Appellants : Mr.P.S.Kothandaraman
(in All Review Appls)

For Respondents : Mr.Gunasekaran
(in All Review Appls) Additional Government Pleader

COMMON JUDGEMENT

All these Review Applications have been filed by the land owners, whose lands were acquired by the Government for construction of quarters for the Tamil Nadu Special Police, VI Batalion at Sundarampalli Village, Tirupattur Taluk, North Vellore District.

2. By the common award, the Land Acquisition Officer fixed compensation for the lands acquired at Rs.2,600/- per acre. Not satisfied with the awards made, the appellants had sought for reference under Section 18 of the Land acquisition Act, 1894. In those references, which were numbered as LAOP Nos.6,7,8,73,116, & 117/2002. The reference Court viz., the Additional District Judge, Fast Track Court, Thirupattur has

enhanced the compensation to Rs.1.50 paise per sq.ft. Not satisfied with the said fixation, the appellants preferred the above appeals in A.S.Nos.402, 564 to 568/2010. These appeals were disposed of, by this Court on 27.08.2010, by enhancing the compensation to Rs.3/- per sq.ft. When the appeals were heard, it was brought to the notice of this Court, for the very same acquisition, a reference was made in LAOP No.7/1999 before the Sub Court, Tirupattur and the learned Sub Judge has fixed the market value of the land at Rs.5.60 per sq.ft. The appeal in A.S.No.620 of 1996 filed by the Acquiring Authority was dismissed by this Court on 06.02.2008.

3. Therefore, Mr.P.S.Kothandaraman, the learned counsel for the appellant had contended before Hon'ble Justice Mr.Chandru that in this case also the compensation should be granted at Rs.5.60 per sq.ft. However, the said contention was opposed by the learned Government Pleader, on the ground, that this Court cannot grant more than what was asked for by the land owners. The said contention was accepted by the learned Judge and the appeals were partly allowed, directing the respondents to pay the compensation at the rate of Rs.3/- per sq.ft. Hence these review petitions.

4. Mr.Kothandaraman, learned counsel for the review applicants would vehemently contended that it is the duty of the Court to award the

just compensation and it need not always be limited to the amount claimed by the land owners. He would also contend that before the reference Court, that the land owners had claimed compensation of Rs.15/-per sq.ft. Mr.Kothandaraman, learned counsel would further contended that the learned Judge, who disposed of these appeals was not justified in restricting the compensation to the amount claimed by the appellants. He also invited my attention to the judgement of the Hon'ble Supreme Court reported in **1985 (3) SCC 737 [Bhag Singh .Vs. UT of Chandigarh]** ; **2010 (10) SCC 458 [Pralhad and Others .Vs. State of Maharashtra and Another]** and in **AIR 2003 SC 1989 [Banarsi .Vs. Ramphal]** and the judgement of the Division Bench of this Court reported in **MANU/TN/1268/2013 P.R.Srinivasan .Vs. The Special Tahsildar, Adi-Dravidar.** Mr.Kothandaraman, learned counsel also pointed out the judgement of the Division Bench of this Court in **P.R.Srinivasan .Vs. The Special Tahsildar, Adi-Dravidar** case as stated supra, arose in similar circumstances in a review application.

5. Mr.Gunasekaran, learned Special Government Pleader appearing for the respondent would vehemently contended that there cannot be a review of the judgement. More so when the learned Single Judge had consciously decided that the appellants are not entitled to more than what they had claimed. He would also contended that the appellants having restricted their claim to Rs.3/-per sq.ft., cannot asked for more by filing review applications, that too, after lapse of few years. He would

further contended that there is no apparent error on the face of the record that would enable the applicants to invoke Order 47 Rule 33 of the Code of Civil Procedure Code.

6. I have considered the rival submissions. The appeals in question were decided on 27.08.2010. Even as on that date, the Hon'ble Supreme Court judgements reported in **1985 (3) SCC 737 [Bhag Singh .Vs. UT of Chandigarh]** ; **2010 (10) SCC 458 [Pralhad and Others .Vs. State of Maharashtra and Another]** and in **AIR 2003 SC 1989 [Banarsi .Vs. Ramphal]** were available unfortunately, those decisions were not brought to the notice of the Hon'ble Mr. Justice Chandru, who decided the appeals. In fact, in P.R.Srinivasan's case, as stated supra, a Division Bench of this Court had under identical circumstances invoked the power of the review and awarded higher compensation by directing the appellants to pay additional Court fee.

7. Therefore, I do not think that the objections of the learned Government Pleader could be sustained. After all in matters relating to compensation, it is the duty of the Court to decide the just compensation as pointed by the Hon'ble Supreme Court reported in **1985 (3) SCC 737 Bhag Singh .Vs. UT of Chandigarh**. The Court should remember that it

is not a dispute between the two private citizens where it would be quite just and legitimate to confine the claimant to the claim made by him and

not to award him any higher amount than that is claimed.

8. Therefore, considering the fact that similarly placed land owners have been awarded as compensation of Rs.5.60 per sq.ft. I do not think, it will be just and equitable to refuse that benefits to the review applicants. In view of the statement of law declared by the Hon'ble Supreme Court as well as the Hon'ble Division Bench of this Court, I am constrained to allow these review applications and modified the judgement and decree made in A.S.No.402/2002 & A.S.Nos.564 to 568/2010.

9. In the light of the above, the compensation awarded is enhanced to Rs.5.60 per sq.ft. subject to the condition that the appellants will pay the Court fee for the enhanced amount of Rs.2.60 per sq.ft. It is also made clear that the review applicants will not be entitled to the interest for the period of 1989 days, the delay caused by filing this review applications. No costs.

10. The learned Government Pleader will be entitled to separate Court fees in each case.

20.09.2017

Index:No

<http://www.judis.nic.in>

Internet: Yes

KP

To

1.The Additional District Sessions Court,
Fast Track Court,
Tirupattur,
Vellore District.

2.The Special Tahsildar,
(Land Acquisition),
Revenue Divisional Officer,
Thirupattur,
Vellore District.

3.The Section Officer,
V.R.Section,
High Court, Madras.



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R.SUBRAMANIAN., J.

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