

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.19907 to 19909 of 2004

1. Tmt.Kittamma
2. Seenivasulu
3. Tmt.Kanniakumari
4. Tmt.Rameswari

... Petitioners in W.P.No.19907 of 2004

1. Rajamma
2. Vijayakumari
3. Dhanalakshmi
4. Srinivasan
5. Muniraj
6. Suresh
7. Murugesh

... Petitioners in W.P.No.19908 of 2004

1. Parvathamma
2. Ramachari
3. Srinivasan
4. Narayanachari
5. L.Venkatesh
6. Parvathy
7. Kalamma

.. Petitioners in W.P.No.19909 of 2004

1. The District Collector,
Dharmapuri District,
Dharmapuri.

2. The Special Tahsildar,
Land Acquisition Officer,
Hosur-Kelavarapalli Reservoir Project,
Hosur, Dharmapuri District.

.. Respondents in all the Writ Petitions

Writ Petition No.19907 of 2004 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents herein to make a reference to the concerned Civil Court under Section 18 of the Land Acquisition Act, 1894 for getting a higher compensation insofar as the award of compensation in respect of the petitioners' lands are concerned, comprised in Survey No.51/5A of an extent

of 0.05.5 hectares situate in 80 Avalappalli Village, Hosur Taluk, Dharmapuri District, in respect of the subject matter of the award proceedings in Na.Ka.No.130/88 under Award No.3/91, dated 21.03.1991.

Writ Petition No.19908 of 2004 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents herein to make a reference to the concerned Civil Court under Section 18 of the Land Acquisition Act, 1894 for getting a higher compensation insofar as the award of compensation in respect of the petitioners' lands are concerned, comprised in Survey No.115/2B of an extent of 0.09.5 hectares situate in 126 Kamanthotti Village, Hosur Taluk, Dharmapuri District, in respect of the subject matter of the award proceedings in Na.Ka.No.358/89(A), dated 06.10.1991 of the second respondent passed under Award No.24/91, dated 07.10.1991.

Writ Petition No.19909 of 2004 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents herein to make a reference to the concerned Civil Court under Section 18 of the Land Acquisition Act, 1894 for getting a higher compensation insofar as the award of compensation in respect of the petitioners' lands are concerned, comprised in Survey No.111/3A of an extent of 0.09.5 hectares and 112/2B1 of an extent of 0.02.01 hectares in total 0.11.5 hectares situate in 126 Kamanthotti Village, Hosur Taluk, Dharmapuri District, in respect of the subject matter of the award proceedings in Na.Ka.No.358/89(A), dated 06.10.1991 of the second respondent passed under Award No.24/91, dated 07.10.1991.

For Petitioners : Mr.Mohammed Saifullah Kham

For Respondents : Mr.Akhil Akbar Ali, Govt. Advocate

ORDER

The petitioners have come forward with these Writ Petitions praying for issuance of Writs of Mandamus to direct the respondents herein to make a reference to the concerned Civil Court under Section 18 of the Land Acquisition Act, 1894 for getting a higher compensation insofar as the award of compensation in respect of the respective lands of the petitioners in the respective survey numbers in the respective villages in the respective awards.

2. It is the case of the petitioners that the respondents herein has to make a reference under Section 18 of the Land

Acquisition Act to the civil Court for getting higher compensation insofar as the lands in question are concerned, which were acquired by the respondents.

3. Admittedly, in these cases, the awards had been passed as early as in 1991, which had become final. The petitioners have come forward with these Writ Petitions in 2004 and there is no iota of evidence or explanation given in the affidavits as to the delay in filing the Writ Petitions.

4. The only ground addressed by the learned counsel for the petitioners is that the issue involved in these Writ Petitions is covered by an order of this Court in W.P.No.6575 of 2000, dated 18.04.2000 and hence, the matters have got to be referred to the Civil Court. A glance of the said order of this Court in the said Writ Petition makes it clear that the husband of the claimant therein has already filed a writ petition in W.P.No.945 of 1993 challenging the grant of lower compensation and that he contended that he would be entitled to compensation of Rs.15 lakhs per acre and this Court directed that the issue has got to be decided by the competent Court and reference has got to be made under Section 18 of the Land Acquisition Act. In the said W.P.No.6575 of 2000, this Court relied on a judgment of this Court reported in 1999 (3) MLJ 265 (M.P.Palani and others Vs. State of Tamil Nadu and others). Since there was no reference made, the petitioner was forced to file another Writ Petition, i.e. the legal heir of the deceased has filed the said W.P.No.6575 of 2000, in which this Court directed that reference should be made. But that is not the case on hand. The petitioners herein are aware of the award passed as early as in 1991 and after due Notification under Section 4(1) issued on 12.08.1988, Section 6 Declaration had been issued on 19.04.1989.

5. Moreover, the Apex Court, in the judgment reported in 2002 (3) SCC 533 (Padma Sundara Rao Vs. State of T.N.), has held as follows:

"9. Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case, said Lord Morris in *Herrington Vs. British Railways Board* (1972 (2) WLR 537 = 1972 AC 877 (HL)). Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases."

6. In view of the above judgment of the Apex Court and that as there is delay in approaching this Court, the fact that the petitioners have woken up from the slumber after a period of 13 years from the date of passing of the award in 1991, by filing these Writ petitions in 2004, this Court is not inclined to grant the relief sought for by the petitioners. Accordingly, the Writ Petitions are dismissed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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Copy to

1. The District Collector,
Dharmapuri District,
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2. The Special Tahsildar,
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Hosur-Kelavarapalli Reservoir Project,
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W.P.Nos.19907 to 19909 of 2004

GN(07/09/2017)

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