

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 09-07-2018

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

CONTEMPT PETITION No.1539 OF 2016

1.Dhamodharapillai

2.Sagunthala

3.Govindan

4.Chinnasamy

5.Dhanalakshmi

6.Govindaraja Pillai

7.Pushpa

8.Kanna Pillai

9.Pachai

10.Nataraj

11.Kishtan

12.Kulasekaran

All are represented by their Power Agent

Y.Balakrishna Reddy

.... Petitioners

-vs-

Kalaimani

The Special Tahsildar,

(Land Acquisition) SIPCOT Unit,

Irungattukottai Scheme,

Sriperumbudur.

... Respondent

Petition under Section 11 of the Contempt of Courts Act, to punish the respondent for wilfully disobeying the order, dated 01.06.2015, passed by this Court in W.P.No.13928 of 2015.

For petitioners : Mr.G.Karthikeyan

For respondent : Mr.M.Elumalai,
Govt.Advocate.

O R D E R

The petitioners, alleging non-compliance of the order

passed by this Court in W.P.No.13928 of 2015, dated 01.06.2015, came
<https://hcservices.ecourts.gov.in/hcservices/>

forward to file this Contempt Petition.

2. Mr.M.Elumalai, learned Government Advocate, accepted notice on behalf of the respondent.

3. During the pendency of this contempt petition, the Special Tahsildar (Land Acquisition), SIPCOT Unit, Irungattukottai Scheme, Sriperumbudur, vide his proceedings Se.Mu.Na.Ka.No.13/2015, dated 08.01.2018, has stated that the request made by the petitioners for enhanced compensation under Section 28-A of the Land Acquisition Act, 1894, in short, "the Act", cannot be considered and accordingly was rejected.

4. Mr.G.Karthikeyan, learned counsel for the petitioners, would submit that the said official, without properly applying his mind to the legal and factual position, erroneously rejected the petitioners' claim for enhanced compensation under Section 28-A of the Act and accordingly he prays for appropriate orders.

5. Per contra, the learned Government Advocate appearing for the respondent would submit that admittedly the petitioners did not seek reference under Section 18-A of the Act and on becoming aware of the deduction of the compensation by the judgment of this Court in A.S.Nos.225 to 342 of 2006, dated 30.11.2009, have woken up from deep slumber and belatedly submitted an application, which was correctly rejected by the authority; it is for the petitioners to challenge the said proceedings and, accordingly, he prays for closure of this contempt petition.

6. This Court has considered the rival submissions and also perused the material available on record. It is relevant to extract 28-A of the Land Acquisition Act, 1894, which reads as under :

<https://hcservices.ecourts.gov.in/hcservices/>

"28A. Re-determination of the amount of compensation on the basis of the award of the Court. -
(1) where in an award under this part, the Court allows

to the applicant any amount of compensation in excess of the amount awarded by the Collector under section 11, the persons interested in all the other land which is similar in all respects and merits and is covered by the same notification under section 4, sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector under section 18, by written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the Court :

Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.

(2) The Collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard, and make an award determining the amount of compensation payable to the applicants.

(3) Any person who has not accepted the award under sub-section (2) may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court and the provisions of sections 18 to 28 shall, so far as may be, apply to such reference as they apply to a reference under section 18."

7. As per the Full Bench decision of the Bombay High Court reported in 2008 (2) CTC 705 (Shrikrishna Sitaramji Fande v. State of Maharashtra), the scope of Section 28-A and Section 54 of the Act came up for consideration before the Hon'ble Supreme Court and it has been reported in 2018 (7) SCALE 455 (Ramsingbhai (Ramsangbhai) Jerambhai v. State of Gujarat. It is relevant to extract paragraph 4 of the order, which reads as under:

"4. However, if the State/authorities/claimants have approached the higher Courts for reduction/enhancement of quantum of compensation, as the case may be, the collector, under Section 28A of the Act, shall wait till a decision is finally rendered and thereafter award the compensation as per the modified verdict of higher Courts."

8. In the light of the ratio laid down in the abovesaid decision, this Court is of the considered view that no relief would be granted to the petitioners herein and they are at liberty to challenge the proceedings of the Special Tahsildar, dated 08.01.2018, before the competent authority in accordance with law.

9. In the result, this Contempt Petition is closed, subject to the above observation. No costs.

SD/
ASSISTANT REGISTRAR (Comm.Cases)

//Certified to be true copy//

Dated at Madras this the day of 2018.

COURT OFFICER (O.S.)

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CO/14/9/2018

To

Kalaimani
The Special Tahsildar,
(Land Acquisition) SIPCOT Unit,
Irungattukottai Scheme,
Sriperumbudur.

One CC to Mr.G.Karthikeyan, SR.10171
One CC to Government Pleader, SR.9457