

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2018

CORAM

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P. 18954 of 2018
and
W.M.P. 22357 of 2018

1. E.Govindaswamy
2. P.Radhan
3. G.Dasarathan
4. D.Ravi
5. P.Selvam
6. G.Mohan
7. A. Narayanaswamy
8. S.Sanjeevi Naidu
9. D.Sreenivasan
10. K.B.Mahesh
11. K.Thukkaram Naidu
12. M.Manohan
13. M.Ravichandran
14. S.Sekar
15. A.Kathavarayan
16. S.Krishnamurthy
17. D.Kakkaiya
18. E.Govindaraj
19. T.Suresh
20. T.Nagesh
21. U.Jitendra Samtharia
22. G.Munivel Chetty
23. B.Vijayakumar
24. K.Mani
25. K.Kattan
26. Balarama Naidu, since deceased
rep. By his wife Pramila
27. R.Maran
28. M.Palayam
29. D.Ranjana
30. C.Ramesh
31. K.Sadanandam

... Petitioners

Vs

1. The Government of Tamil Nadu,
rep. by its Secretary to Government,

Public works Department,
Fort St. George,
Chennai-600 009.

2. The Commissioner of Land
Administration,
Ezhilagam, Chepauk,
Chennai-600 005.

3. The Collector,
Tiruvallur District.

4. The Executive Engineer,
Public Works Department,
Redhills-600 052.

5. The Unit Special Tahsildar (LA-I)

6. The Unit Special Tahsildar (LA-II)

7. The Unit Special Tahsildar (LA-III)

8. The Unit Special Tahsildar (LA-IV),
Respondents 5 to 8 are having their office
at Gummidipoondi Taluk,
Tiruvallur District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Mandamus, directing the respondents to follow the Division Bench order of this Hon'ble Court dated 27.08.2015 made in Writ Appeal Nos.1735 of 2014, 22, 23, 133, 135 to 138, 141 to 144, 146 to 153 and 199 and 203 of 2015 and the provisions of the Right of Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 before taking possession of the petitioners lands.

For Petitioners : Mr.N.R.Chandran,
Senior Advocate for Mr.B.S.Jothiraman

For Respondents : Mr.S.R.Rajagopal,
Addl. Advocate General

Mr.C.Thirumaran
Special Govt. Pleader for R1-R4

Mr.N.Manikandan
Government Pleader for R5-R8

O R D E R

This writ petition has been filed seeking for a direction to the respondents to follow the order passed by the Division Bench of this Hon'ble Court in W.A.Nos.1735 of 2014, 22, 23, 133, 135 to 138, 141 to 144, 146 to 153 and 199 to 203 of 2015 dated 27.08.2015 and to pay compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter called as 'Act, 30 of 2013').

2. According to the petitioners, the petitioners are agriculturists and their lands were sought to be acquired for the construction of Kanankottai-Thervoy Kandigai Reservoir Project. A notification was issued under Sec.4(1) of the Land Acquisition Act, 1894 invoking the urgency provision under Sec.17 of the Act and a declaration under Sec.6 of the Act was issued in the month of July 2013. Thereafter, an award was also passed under Sec.11 of the Act, viz., Act 30 of 2013 after the new Act came into force.

3. Since the award has been passed under the old Act after the Act 30 of 2013 come into force, the petitioners have filed Writ Petitions before this Court challenging the same and the Writ Petitions were dismissed. Challenging the order dismissing the Writ Petitions, the petitioners have filed the Writ Appeals in W.A.Nos.1735 of 2014 etc. and a Division Bench of this Hon'ble Court by an order dated 27.08.2015, after considering the undertaking given by the learned Advocate General that a fresh award will be passed under Act 30 of 2013, closed the Writ Appeals, and directed the authorities to re-determine the award as per the provisions of Act 30 of 2013 and the appellants shall not be dispossessed from the lands in question till then.

4. After the order passed by this Hon'ble Court, the petitioners have sent their representations requesting the authorities to pay the compensation as per the order passed by the Division Bench. Thereafter, on 22.05.2018, the respondents 5 to 8, have sent a calculation sheet regarding the fixation of compensation without the full text of the award. Subsequently, the petitioners have found that the award has not been passed as per the provisions of Act 30 of 2013. In the said circumstances, the petitioners have filed the present Writ Petition.

5. The respondents have filed their counter affidavit stating that as per the directions of the Division Bench, individual award has been passed in respect of all Writ Petitioners on various dates in the month of April 2018 strictly following the provisions contained under the Act 30 of 2013, and the order passed by the Hon'ble Division Bench was strictly complied with.

6. Mr.N.R.Chandran, learned senior counsel appearing for the petitioners submitted that the award has been passed only after filing the present Writ Petition, but the interest component was not calculated as per Act 30 of 2013 and they have not paid any interest for additional market value from the date of interim award till passing the present award under the new Act. That apart, the petitioners were also not paid the award amount, without paying the award amount, the respondents are now taking steps to take possession of the land.

7. Disputing the above contentions, Mr.S.R.Rajagopal, learned Additional Advocate General, appearing for the respondents contended that, the award has been passed strictly in conformity with the Act 30 of 2013 and the petitioners are not entitled for the interest as per the market value, however, the respondents have paid solatium on the additional market value, as per the New Act. He has further submitted that the entire award amount has been paid to all the petitioners. Only in respect of three petitioners, the amounts have been deposited and they will receive the same on 31.08.2018. He has also filed a chart showing the payments made to the petitioners through electronic clearance system.

8. The learned Additional Advocate General had further submitted that after passing of the award, now all the petitioners have filed their objections and seeking for a reference. Now, the Collector is also taking steps to refer the matter to the concerned District Court under Sec.64 of the Act 30 of 2013. He has further submitted that now, the entire award amount has been paid to the petitioners, but some of the petitioners are resisting for taking possession, after the receipt of the award petitions necessarily hand over the possession of the lands to the respondents. He has further assured that wherever the standing crops are there, the authorities will give one month time for them for harvesting the standing crops and after harvest, they have to hand over the possession of the lands to the respondents on or before 30.09.2018.

9. I have considered the rival submissions and perused the material available on record.

10. The prayer sought in the Writ Petition is to follow the order passed by the Division Bench of this Court and to pay compensation under the provisions of the Act 30 of 2013. Now, it is submitted that the respondents have passed the award as per the orders passed by the Division Bench and they have also paid the entire compensation to the landowners and the counter

affidavit was also filed to that effect.

11. The learned Senior Counsel appearing for the petitioners contended that even though the respondents had passed the award as per the Act 30 of 2013, they have not granted interest as per Sec.33 of the Act and the interest for the additional market value was not paid to the petitioner. The Additional Advocate General appearing for the respondents submitted that now, the petitioners have already filed the applications seeking for a reference of the award under Sec.64 of the New Act and the respondents also considering the applications and the award will be settled soon. In the said circumstances, already, the petitioners sought for reference of the award under Sec.64 of the Act. If at all, the petitioners have any grievance regarding the award, they can always agitate the same before the Reference Court, and that issue need not be decided at this stage and the Reference Court will consider their objection. As the matter is going to be referred to the District Court seeking for enhancement of compensation, I am of the view, now it is not necessary to go into all those details.

12. In the said circumstances, the respondents are directed to refer the matter as per Sec.64 of the Act 30 of 2013 in respect of all the awards within a period of four weeks from the date of receipt of the copy of this order and the petitioners are at liberty to raise all their objections before the reference court. So far as taking possession of lands is concerned, it is submitted that in respect of some of the petitioners, there are standing crops and the petitioners required 30 more days for harvesting the crops. In the said circumstances, the respondents are directed to grant 30 days time to those landowners enabling them to harvest the standing crops and the petitioners are directed to hand over the possession of the lands on 30.09.2018. So far as the remaining petitioners are concerned, it is open to the respondents to take possession of the lands and to proceed further.

13. With the above observation, the present Writ Petition stands disposed of. No costs. Consequently, other Writ Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(CS-IX)

//True copy//

Sub Assistant Registrar

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To

1. The Government of Tamil Nadu,
rep. by its Secretary to Government,

Public works Department,
Fort St. George,
Chennai-600 009.

2. The Commissioner of Land
Administration,
Ezhilagam, Chepauk,
Chennai-600 005.
3. The Collector,
Tiruvallur District.
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Public Works Department,
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Respondents 5 to 8 are having their office at Kannakottai
Thervoy Kandigai Reservoir Project,
Gummidipoondi Taluk, Tiruvallur District.

+1cc to Mr.B.S.Jothiraman, Advocate SR.No.59893

+1cc to Government Pleader SR.No.60095

W.P. 18954 of 2018
and
W.M.P.22357 of 2018

GMV (17/09/2018)

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