

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2018

CORAM

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P.Nos.26085 of 2018

B.Sellappan

...Petitioner

..Vs..

1.The District Collector,
Namakkal District,
Namakkal.

2.The Special Tahsildar,
(Land Acquisition),
Salem-Karur Broad Gauge Railway Project,
Namakkal.

3.The Deputy Chief Engineer, (Construction),
Southern Railway,
Salem-5.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents 1 and 2 to pass fresh award by re-determining the amount of compensation in accordance with Section 28A of the Land Acquisition Act, 1894 in the light of Judgment and Decree dated 07.03.2018, made in L.A.O.P.No.65 of 2002 on the file of the learned Sub Judge, Namakkal with respect to the petitioner's acquired land in Survey Nos.256/1B, 256/2, 256/3, 256/4, 256/5, 256/6B and 256/11B, situated at Ladduvadi village, Namakkal Taluk and District based on the representation dated 02.05.2018.

For Petitioner

: Mr.S.Senthil

For Respondents

: Mr.Elumalai,
Government Advocate

O R D E R

This writ petition has been filed seeking a mandamus, directing the respondents 1 and 2 to re-determine the amount of

compensation in respect of the lands of the petitioner comprised in Survey Nos.256/1B, 256/2, 256/3, 256/4, 256/5, 256/6B and 256/11B, situated at Ladduvadi village, Namakkal Taluk and District, which were acquired for the purpose of Salem-Karur Broad Gauge Railway Project, in the light of the provisions in Section 28-A of The Land Acquisition Act, 1894, by considering his application dated 02.05.2018.

2. The case of the petitioner is that, he was the absolute owner of the lands in question and the same were acquired by the State for the Railway Project under the provisions of the Land Acquisition Act, 1894 [in short "the Act"]. On 25.04.2000, an award was passed wherein the second respondent fixed compensation at Rs.1,23,500/-. As the petitioner did not appear and produce legal heir certificate during award enquiry, the second respondent made a reference under Sections 30 & 31 of the Act to the Subordinate Court, Namakkal, and the compensation amount was deposited in the credit of the reference court. In the mean time, the other land owners who lost their land to the State, made their objections for enhanced compensation and the second respondent, in turn, made such references under Section 18 of the Act, to the learned Subordinate Judge, Namakkal. On such reference, the learned Subordinate Judge, after a full fledged enquiry, has enhanced the compensation at Rs.26/- per square feet. Thereafter, on the getting the copy of the judgement, the petitioner made his representation to the first and second respondents to extend the benefit arising out of the order of the civil court to the petitioner. The grievance of the petitioner is that his representation so far not considered by the first and second respondents. Hence, this writ petition.

3. The learned counsel for the petitioner submitted that the reference court, by judgement dated 07.03.2018, enhanced the compensation amount and on getting the certified copy of the judgement, the petitioner made a representation within the period of limitation seeking to extend the benefit under Section 28-A of the Act on 02.05.2018. The learned counsel for the petitioner further submitted that though the application for enhanced compensation was made in time, the same has not yet been considered by the first and second respondents.

4. Considering the fact that the application made by the petitioner to the first and second respondents under Section 28-A of the Act seeking to extend the benefit arising out of the judgement of the reference court is pending for consideration since 02.05.2018, in those circumstances, the first respondent

is directed to consider the same and pass appropriate orders on merits and in accordance with law after giving an opportunity of hearing to the petitioner, within a period of twelve weeks from the date of receipt of a copy of this order. This writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mrp/mbi

To

- 1.The District Collector,
Namakkal District,
Namakkal.
- 2.The Special Tahsildar,
(Land Acquisition),
Salem-Karur Broad Gauge Railway Project,
Namakkal.
- 3.The Deputy Chief Engineer, (Construction),
Southern Railway,
Salem-5.

+1cc to Mr.P.T.Ram Kumar,Advocate, S.R.No.69420
+1cc to Mr.S.Senthil, Advocate, S.R.No.69315
+1cc to the Government Pleader, S.R.No.69149.

RR(CO)
SSM(06/12/2018)

W.P.No.26085 of 2018

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