

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2018

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.29773 of 2018

1. Vairam

2. Rathinam

3. K.Kandasamy ... Petitioners

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, 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 04.04.2018, made in L.A.O.P.No.39 of 2002 on the file of the learned Sub Judge, Namakkal with respect to the petitioner's acquired land in Survey No.44/1A2, situated at Kondichettipatti Village, Namakkal Taluk & District based on the representation of the petitioners 1 and 2 dated 14.07.2018 as well as the representation of the third petitioner dated 10.07.2018.

For Petitioner : Mr. C.Jagadish

For Respondents : Mr.M.Elumalai,
Gov. Adv.
for R1 and R2

: Mr. P.T.Ramkumar,
for R3

O R D E R

This writ petition has been filed seeking a writ of mandamus directing the respondents 1 and 2 to re-determine the amount of compensation in respect of the lands of the petitioners comprised in Survey No.44/1A2, situated at Kondichettipatti Village, Namakkal Taluk & District, which was acquired for the purpose of Salem-Karun Broad Gauge Railway Project, in the light of the provisions in Section 28-A of The Land Acquisition Act, 1894 and by considering their applications dated 14.07.2018 and 10.07.2018.

2. The case of the petitioners is that, they are the absolute owners 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 04.06.2001, an award was also passed, wherein the 2nd respondent fixed compensation at Rs.1,23,500/- per Hectare-. The 2nd respondent made a reference under Sections 30 & 31 of the Act to the Subordinate Court, Namakkal and the compensation amount was deposited to 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 2nd 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 assigned LAOP numbers and after full fledged trial, enhanced the compensation at Rs.106/- per square feet. Thereafter, on the getting the copy of the judgement, the petitioners made their representation to the respondents 1 and 2 to extend the benefit arising out of the order of the reference court to the petitioners. The grievance of the petitioners is that their representation has not so far been considered by the respondents 1 and 2. Hence, this writ petition.

3. The learned counsel for the petitioners submitted that reference court by judgement dated 04.04.2018 enhanced the compensation amount and on getting the certified copy of the judgement, the petitioners made representations within the period of limitation seeking to extend the benefit under Section 28-A of the Act on 14.07.2018 and 10.07.2018. The learned counsel for the petitioners further submitted that though the applications for enhanced compensation was made in time, the same has not yet been considered by the respondents 1 and 2.

4. Considering the fact that the applications made by the petitioners to the respondents 1 and 2 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, the

respondents 1 and 2 are directed to consider the same and pass appropriate orders on merits and in accordance with law 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

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.S.Senthil, Advocate SR.No.77856

+1cc to Government Pleader SR.No.78323

सत्यमेव जयते

W.P.No.29773 of 2018

SSI (CO)

GMV (01/02/2019)

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