IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 23.11.2018
CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.29716 of 2018

1. Murugesan

2. Muthayammal

3. Duraisamy

4. Nallammal

5. Bommayee ... Petitioners

-Versus-

1.The District Collector,
Namakkal District,
Namakkal.

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

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

... Respondents

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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 granted in Award No.29/1999-2000, dated 31.01.2000 in accordance with Section 28A of the Land Acquisition Act, 1894, in the light of the judgment and decree dated 29.01.2018 made in L.A.O.P.No.299 of 2002 on the file of the learned Sub Judge, Namakkal with respect to the petitioners acquired land in Survey Nos.86/5, situated at Rasipalayam Village, Namakkal Taluk & District based on the representation

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of the petitioners dated 12.06.2018.

For Petitioner : Mr.S.Senthil

For Respondents : Mr.C.Thirumaran, Spl. Government Pleader

ORDER

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 petitioner comprised in Survey No.86/5 situated at Rasipalayam Village, Namakkal Taluk, which was 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 and by considering his application dated 12.06.2018.

2. The case of the petitioner is that he was the absolute owner of the land in question and the same was acquired by the State for the Railway Project under the provisions of the Land Acquisition Act, 1894 [in short "the Act"]. On 31.01.2000, an award was passed wherein the 2nd respondent fixed compensation at Rs.59,280/-. During award enquiry, 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 in the same notification 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, he enhanced the compensation at Rs.47/- per square feet. Thereafter, on the getting the copy of the judgement, the petitioner made his representation to the respondents 1 and 2 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 has not so far been considered by the respondents 1 and 2. Hence, this writ petition.

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3. The learned counsel for the petitioner submitted that reference court by judgement dated 29.01.2018 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 12.06.2018. 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 1st respondent.

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4. Considering the fact that the application made by the petitioner to the 1st respondent 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 1st respondent respondent is 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(CS III)

//True Copy//
Sub Assistant Registrar

mrp
To

1.The District Collector,
Namakkal District,
Namakkal.

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

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

+1cc to Mr.S.Senthil, Advocate, S.R.No.80650

+1cc to the Government Pleader, S.R.No.80464

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MP(CO)
GSP(30/01/2019)

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