



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.09.2018

CORAM:

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD) No.18869 of 2009

1.S.Boopathi

2.Mahalakshmi

3.S.Samuthrakani

4.Samuthravalli

5.S.Pushpavalli

6.S.Shanmugakani

7.Moorthy

.. Petitioners

Vs.

The Revenue Divisional Officer,
Aruppukottai,
Virudhunagar District.

.. Respondent

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the entire records pertaining to the impugned order passed by the respondent in Na.Ka.Aa2/5922/2017, dated 29.12.2017 for Petitioner's concerned and quash the same in respect of the petitioners and consequently direct the respondent to pay the compensation at Rs.1,500/- per cent together with the statutory benefits based on the representation, dated 16.12.2017, within a stipulated time.

For Petitioners : Mr.G.Mariappan

For respondent : Mr.A.Thiyagarajan,
Government Advocate

ORDER

This writ petition has been filed by the petitioners on 15.12.2017. The order passed by the respondent rejecting the claim of the petitioners for enhancement of compensation and for a



direction to the respondent to pay compensation at Rs.1,500/- per cent together with the statutory benefits based on the representation, dated 16.12.2017, within a stipulated time.

2. The case of the petitioners is that the petitioners land and some other lands were acquired by the Government for a public purpose by fixing a compensation of Rs.1,000/- per cent. Based on the reference made by some of the land owners, the learned Additional District Judge, Virudhunagar, in LAOP Nos.32, 33, 34 and 36 of 2001 has enhanced the compensation to Rs.1,400/- per cent together with the statutory benefits. Subsequently, some of the co-owners of the petitioners had sent a representation seeking to enhance the compensation and as the same was not considered by the respondent, they have filed a writ petition in W.P.(MD).No.20156 of 2015 and this Court, by order dated 05.09.2011, directed the respondent to consider the said representation on par with the other land owners, within a stipulated time. As the petitioners are also co-owners and they are also entitled to get enhanced compensation, they had sent a representation dated 16.12.2017. But, the respondent, by the impugned order dated 29.12.2017, had rejected the claim of the petitioners stating that the request for enhancement of compensation under Section 28(A) of the Land Acquisition Act cannot be considered, as the petitioners were not parties in W.P.(MD).No.20156 of 2015. Challenging the said order, the petitioners are before this Court.

3. Heard the learned counsel appearing for both sides and perused the records carefully.

4. Admittedly, it is not in dispute that the petitioners herein are the co-owners of the petitioners in W.P.(MD).No.20156 of 2015 and that they are also entitled to get enhanced compensation. The Hon'ble Supreme Court and this Court has time and again held that once the Reference Court decides the matter and enhances the compensation, a person, who is otherwise eligible to similar relief and who has not sought reference, may apply under Section 28-A of the Land Acquisition Act. If the conditions for application of the said provision have been complied with, such person would be entitled to the same relief, which has been granted to other persons seeking reference and getting enhanced compensation. Therefore, merely because the petitioners were not parties in W.P.(MD)No.20156 of 2015, the respondent ought not to have rejected the claim of the petitioners herein. The respondent should consider the claim of the petitioners individually. There is no merit in the impugned order.

5. In view of the above, the impugned order, dated 29.12.2017, is set aside and the matter is remanded to the file of the respondent. The respondent is directed to consider the case of the petitioners and pass orders afresh on merits and in accordance



with law, after giving an opportunity of personal hearing to the petitioners, within a period of twelve days from the date of receipt of a copy of this order.

6. This Writ Petition stands disposed of accordingly. No costs.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar (CS-I)

To

The Revenue Divisional Officer,
Aruppukottai,
Virudhunagar District.

Order made in
W.P (MD) No. 18869 of 2018
10.09.2018

KK/RSK/SAR 1/30.10.2018/3P/2C