

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2019

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.31479 of 2007 &  
W.P.Nos.15608, 16295 to 16299, 16573 of 2008

W.P.No.16295 of 2008

E.ELUMALAI ... Petitioner in WP 16295/05  
E. ARPUTHAN .... Petitioner in WP 16296/06  
E. SELVANATHAN ... Petitioner in WP 16297/08  
MUTHU @ MUTHULAKSHMI ... Petitioner in WP 16298/08  
R.NAGALAKSHMI .... Petitioner in WP 16299/08  
T.SIVARAJ ... Petitioner in WP 15608/08  
S.SIVAMANI .... Petitioner in WP 16573/08  
R. MUNUSAMI ... Petitioner in WP 31479/07

1.The District Collector  
Kanchipuram District  
Kanchipuram

2.The Special Tahsildar  
(Land Acquisition)  
Saidapet Taluk, Saidapet

... Respondents in all WPs

Common Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records relating to the order dt.02.09.2005 passed in Na.Ka.47374/99 f1 on the file of the District Collector, Kanchipuram, the first respondent herein and quash the same and consequently direct the first respondent to pass an award for enhanced compensation based on the order dated 31.08.2000 passed in L.A.OP Nos.566 of 1987 on the file of the

Sub-Court, Poonamallee along with interest at the rate of 15% p.a. from the date of acquisition till the date of payment.

For Petitioners in all W.Ps.: Mr.V.Manohar

For Respondents in all W.Ps.: Mr.M.Elumalai  
Government Advocate

#### COMMON ORDER

The petitioners have filed these writ petitions under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records relating to the order dt.02.09.2005 passed in Na.Ka.47374/99 f1 on the file of the District Collector, Kanchipuram, the first respondent herein and quash the same and consequently direct the first respondent to pass an award for enhanced compensation based on the order dated 31.08.2000 passed in L.A.OP Nos.566 of 1987 on the file of the Sub-Court, Poonamallee along with interest at the rate of 15% p.a. from the date of acquisition till the date of payment.

2.The case of the petitioners is that the petitioners are the owners of the lands bearing Survey No.8, 14/1A, 46/1C, 47/1, 47/2 & 98, 56/1 & 56/2, 56/2, 61/1 respectively., in Kadaperi Village in Saidapet Taluk. These lands were acquired by the Government through the respondents for setting up of the Madras Export Processing Zone (MEPZ). Thereafter, Award No.5/86 was passed by the 2<sup>nd</sup> respondent herein on 28.11.1986. Through the said award, compensation of Rs.6,960/-, Rs.7,250/- Rs.7,540/- Rs.7,155/-, Rs.7,975/- Rs.15,225/-, Rs.7,975/-, Rs.10,440/- respectively., was granted in respect of the said lands acquired by the Land Acquisition Officer. The petitioners received the compensation from the 2<sup>nd</sup> respondent under the impression that the same would be sufficient to refer the award to the reference Court under Section 18. However, no reference had been made by the respondents to the reference court in respect of petitioners' land. Thereafter, the petitioners came to know about the enhanced compensation awarded by the Sub-Court, Poonamallee, to other land owners covered under the same Award No.5/86 and submitted their applications for enhancement of compensation in respect of their lands under Section 28(A) of the Land Acquisition Act 1894 on 20.03.1989 along with a copy of the award passed by the Sub-Court, Poonamallee.

3.The Sub-Court, Poonamallee through decree dated 13.12.1988 in L.A.O.P. No.566/87, fixed the compensation at the rate of Rs.3,600/- per cent as against the rate of Rs.145/- per cent as fixed by the respondents above. Since, the respondents have failed to take necessary action on the said applications submitted under Section 28(A) by the petitioners, the petition in W.P.No.9152 of 1993 was filed seeking for a direction to take action on the application submitted by the petitioners. After considering the facts of the case, this Court passed an order dated 21.04.1994, directing the 2<sup>nd</sup> respondent to redetermine the compensation payable to the petitioners in accordance with Section 28(A) of the Act, within a period of three months. Aggrieved by the said order, the 2<sup>nd</sup> respondent filed an appeal in W.A.Nos.99-103/95 and batch. The Division Bench of this Court by its order dated 11.12.1996 directed the respondents herein to keep the applications filed under Section 28(A) pending till the disposal of the appeals.

4.The appeals preferred by the respondents against L.A.O.P.No.566/87 and batch was disposed on 11.10.99 remanding the matter to the Sub-Court, Poonamallee for reconsideration. The Sub-Court, Poonamallee was pleased to pass the review order on 31.08.2000 enhancing the compensation from Rs.3,600/- per cent to Rs.4,875/- per cent and the appeal Nos.151/93 to 153/93 filed against the L.A.O.P.No.481, 482, 491/87 was disposed by an order dated 19.06.2002. Thereafter, the petitioners have made a representation to the 1<sup>st</sup> respondent on 15.02.2004 and the same was not considered by the respondents, hence, the petitioners once again filed a petition in W.P.No.11500/2004, wherein, this Court by its order dated 27.04.2004 directed the 1<sup>st</sup> respondent to dispose of the representation dated 15.02.2004 within a period of 12 weeks. However, the 1<sup>st</sup> respondent rejected the said representation filed by the petitioners for the grant of enhanced compensation under Section 28(A) as the same was not filed within 3 months from 19.06.2002, the date of the order of this court in appeals filed against the order of the Sub-Court, Poonamallee. Aggrieved by the said rejection order, these present writ petitions are filed.

5.The learned counsel appearing for the petitioners would submit that initially this Court arrived to a conclusion in the year 1994 that the application under Section 28(A) was filed well within the time, accordingly, directed the 2<sup>nd</sup> respondent to re-determine the compensation payable to the petitioners in accordance with Section 28(A) of the Act, within a period of three months. The decision was kept in abeyance on the ground that the respondents filed the first appeal before this Court against the L.A.O.P.No.566/87 against the award. The first

appeal was disposed of in the year 2002, again the petitioners made representations to the Authorities for consideration. However, erroneously, the 1<sup>st</sup> respondent rejected the representation made by the petitioners stating that the application for grant of enhanced compensation was submitted belatedly. Earlier this Court in W.P.No.9152 of 1993 passed an order dated 21.04.1994, directing the 2<sup>nd</sup> respondent to redetermine the compensation payable to the petitioners in accordance with Section 28(A) of the Act, within a period of three months. Hence, the respondents ought to have considered the application submitted by the petitioners for the grant of enhanced compensation under Section 28(A) of the Act, which was filed in the year 1989. Accordingly, prays for allowing this writ petition.

6. On a perusal of the record, it reveals that the petitioners lands were acquired through Land Acquisition proceedings and award was passed on 28.11.1986. The petitioners thought that the award would be referred to the reference Court for enhanced compensation under Section 18, however, no reference was made to the Sub-Court, Poonamallee. Subsequently, one of the land owners filed a Petition and obtained L.A.O.P. Award in the year 1988 for extension of benefit under Section 28 (A) of the Act. Thereafter, the petitioners filed application under Section 28(A) on 20.03.1989 and also approached this Court by filing a petition in W.P.No.9152 of 1993 as against the inaction of the respondents. This Court by its order dated 21.04.1994 categorically held that the application filed by the petitioners under Section 28(A) is well within the time and the above said order was challenged before this Court by filing an appeal. This Court by way of writ appeal granted limited order in favour of the respondents to observe the order passed by the Sub-Court, Poonamallee and disposed of the appeal on 19.06.2002. The respondents have not legally implemented the order of this Court passed in W.P.No.9152 of 1993 dated 21.04.1994, wherein, this Court directed the 2<sup>nd</sup> respondent to redetermine the compensation payable to the petitioners under Section 28(A) of the Act within a period of three months. The order is merged with the subsequent orders. Subsequent representation of the petitioners dated 15.02.2004 is only a reminder to the respondents to extend the benefit to the petitioners. As against the said order, the respondents have passed a rejection order, which is unsustainable one and the same is against the order of this Court. Hence, the petitioners are entitled to the relief sought for in this writ petition.

7. Accordingly, these writ petitions are allowed. The order dated 02.09.2005 passed in Na.Ka.47374/99 fl on the file of the District Collector, Kanchipuram, the 1<sup>st</sup> respondent herein

is set aside. The respondents are hereby directed to extend the benefit of the order passed by this Court in W.P.No.9152 of 1993 dated 21.04.1994 within a period of 12 weeks from the date of receipt of a copy of this order. It is needless to state that the petitioners are entitled to the interest as per the Land Acquisition Act, from the date of acquisition till the date of payment. No costs. Consequently, connected miscellaneous petition if any closed.

Sd/-  
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

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To

1.The District Collector  
Kanchipuram District  
Kanchipuram

2.The Special Tahsildar  
(Land Acquisition)  
Saidapet Taluk, Saidapet

+9ccs to Mr.V.Manohar, Advocate Srs.No.49742, 49750, 49749,  
49748, 49747, 49746, 49745, 49744, 49743

+1cc to Government Pleader SR.No.50111

W.P.No.31479 of 2007 &  
W.P.Nos.15608, 16295  
to 16299, 16573 of 2008

NS (CO)  
GMY (05/08/2019)

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