

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2019

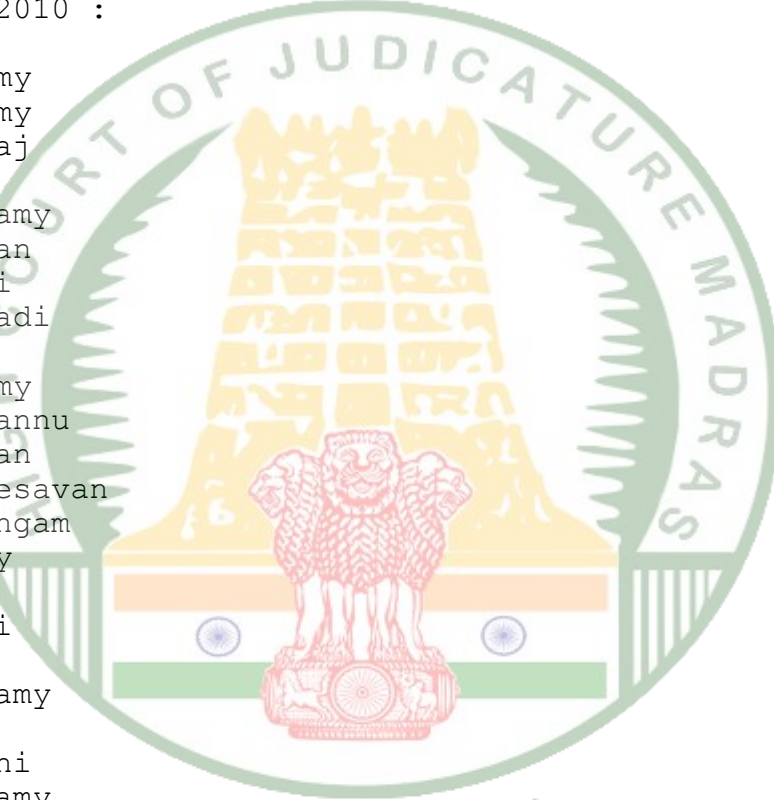
CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.Nos.18469 of 2010 and 6506/2011 and
M.P.No.1/2010 in W.P.No.18469/2010 and
M.P.No.2/2011 and M.P.No.1/2012 in W.P.No.6506/2011

W.P.No.18469/2010 :

1. V.Duraisamy
2. S.Kuppusamy
3. P.Thangaraj
4. C.Raji
5. P.Chinnasamy
6. J.Kuttaiyan
7. K.Sivakami
8. V.Thukkapadi
9. P.Jayavel
10. P.Muthusamy
11. K.Chinnakannu
12. C.Vediappan
13. M.Chennakesavan
14. A.Chokalingam
15. G.Boopathy
16. M.Natesan
17. P.Kulandai
18. C.Murugan
19. P.Chinnasamy
20. C.Dharman
21. M.Subramani
22. B.Chinnasamy
23. G.Gowri @ Muniammal सत्यमेव जयते
24. N.Gopal
25. V.Vellai
26. A.Chinnathambi
27. T.Sathasivam
28. P.Kullammal
29. V.Kalyani
30. Periakkal
31. G.Murugan
32. P.Vajiravel
33. Muthusamy
34. K.Shanmugam
35. V.Venkattammal
36. N.Magendiran



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37. M.Gandhi
38. P.Kandasamy
39. N.Duraisamy
40. S.Pooncholai
41. P.Sakthivel
42. K.Muthuvadee
43. A.Mahalingam
44. D.Radhakrishnan
45. R.Ellammal
46. N.Govindan
47. D.Krishnan
48. D.Bangaru Raji
49. R.Srirangam
50. C.Selvamani
51. P.Venkatachalam

..Petitioners

Vs

1. The District Collector,
Dharmapuri District,
Dharmapuri.
2. The District Collector,
Krishnagiri District,
Krishnagiri.
3. The Revenue Divisional Officer/LAO,
O/o.The Revenue Divisional Officer,
Krishnagiri.
4. The Executive Engineer,
Public Works Department
(Water Resources Organisation),
Mel Pennar Vadi Nila Uttkottam,
Dharmapuri-5.
5. The Chief Engineer
(Water Resources Organisation),
Chepauk, Chennai-600 005.
6. The Principal Secretary,
The Commissioner of Land Administration,
Ezhilagam, Chepauk, Chennai-5.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus, directing the 6th respondent to approve the working sheets forwarded by the 5th respondent in his Proceeding in Letter No.Thou.1(3)/1103/2000 dated 26.03.2009 and consequently direct the 3rd respondent to disburse the enhanced compensation amount to the petitioners.

For petitioners: Mr.A.Maheshnath
for M/s.R.N.Amarnath

For Respondents: Mr.M.Elumalai, Govt. Advocate

W.P.No.6506 of 2011 :

Mahalingam

... Petitioner

vs.

1. The District Collector,
Dharmapuri District,
Dharmapuri.
2. The District Collector,
Krishnagiri District,
Krishnagiri.
3. The Revenue Divisional Officer/LAO,
O/o.The Revenue Divisional Officer,
Krishnagiri.
4. The Executive Engineer,
Public Works Department
(Water Resources Organisation),
Mel Pennar Vadi Nila Uttkottam,
Dharmapuri-5.
5. The Chief Engineer
(Water Resources Organisation),
Chepauk, Chennai-600 005.
6. The Principal Secretary,
The Commissioner of Land Administration,
Ezhilagam, Chepauk, Chennai-5.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus, calling for the entire records leading to the issue of proceedings bearing No.Na.Ka.6443/99/T2 dated 30.8.1999 on the file of the 1st respondent herein and quash the same and direct the respondents herein to disburse the enhanced compensation amount under Section 28A in par with the compensation awarded in L.A.O.P.No.108 to 116/1989 dated 15.09.1995 passed by the Subordinate Court, Dharamapuri to the petitioner.

For petitioner : Mr.A.Maheshnath
for M/s.R.N.Amarnath

For Respondents : Mr.M.Elumalai, Govt. Advocate

COMMON ORDER

The W.P.No.18469/2010 has been filed seeking a writ of Mandamus, directing the 6th respondent to approve the working sheets forwarded by the 5th respondent in his Proceeding in Letter No.Thou.1(3)/1103/2000 dated 26.03.2009 with a consequential direction, directing the 3rd respondent to disburse the enhanced compensation amount to the petitioners.

2. The W.P.No.6506/2011 has been filed questioning the correctness of the proceedings bearing No.Na.Ka.6443/99/T2 dated 30.8.1999 on the file of the 1st respondent herein and to quash the same with a further direction, directing the respondents herein to disburse the enhanced compensation amount under Section 28A of the Land Acquisition Act in par with the compensation awarded in L.A.O.P.No.108 to 116/1989 dated 15.09.1995 passed by the Subordinate Court, Dharamapuri to the petitioner herein.

3. Learned Counsel appearing for the petitioners in both the Writ Petitions in support of the prayers made in the Writ Petitions pleaded that when the petitioners are the land lords of the lands covered under the Notification issued under Section 4(1) of the Land Acquisition Act, the Special Tahsildar conducted an award enquiry on 03.06.1985 and 04.06.1985 respectively. Finally, the Special Tahsildar has passed an award fixing the compensation amount at 30% including the Solatium and the interest of 12% p.a., but the same have not been paid to them. Therefore, some of the villagers filed LAOP.Nos.108/1989 to 116/1989 before the Sub-Court, Dharmapuri. On 15.09.1995, the learned Subordinate Judge, Dharmapuri thereby enhancing the compensation amount passed the decree and judgment holding that the value of the acquisitioned dry land, the value of 1 cent is fixed for Rs.240/- and in addition, an interest rate of 12% is calculated from 4(1) Notification dated 22.8.1984 to the date of award passed on 24.12.1986 and subsequently, additional market value was calculated to Rs.4,221/-, a Solatium of Rs.5,730/- was also fixed. Thereafter, the petitioners preferred a representation to the 1st respondent herein requesting to pay the similar compensation amount to us provided under Section 28A of the Land Acquisition Act on 01.12.1995. But the District Collector, Dharmapuri, failed to pass any orders on the said representation.

4. The learned Counsel for the petitioners would further submit that therefore, the petitioners in W.P.No.18469/2010 have filed W.P.No.18485 of 1998 seeking a direction to the

respondents therein to pass an order on the representation of the petitioners dated 01.12.1995 awarding compensation as per the Decree and Judgment passed by the learned Subordinate Judge, Dharmapuri in L.A.O.P.Nos.108/1989 to 116/1989 dated 15.09.1995. This Court, by an order dated 22.12.1998 issued a direction to the respondents therein to consider and pass appropriate orders on the application made by the petitioners subject to the verification of the fact that the application was filed well within the time limit. On receipt of the said order, the petitioners made a representation to the 1st respondent on 27.01.1999, but the 1st respondent did not make any step to dispose of the representation of the petitioners. Therefore, once again, they gave a representation on 14.01.2004. After receipt of the said representation, the 4th respondent Executive Engineer requesting the 2nd respondent Revenue Divisional Officer in Letter No.216/2004/Tha2/dated 22.01.2004 referring the order passed by this Court, directed to send the Working Sheets to him enabling him to pay the compensation amount as per the orders passed by this Court. Therefore, the grievance of the petitioners is that although the lands belonging to them were acquired in the year 1982, the entire formalities have been completed on the same year and the similarly aggrieved persons received the compensation as per the Decree and Judgment passed in LAOP Nos.108/1989 to 116/1989 by learned Subordinate Judge, Dharmapuri, dated 15.09.1995, they have not paid with the compensation. Thereafter, there was a direction also issued by this Court to conduct an enquiry and pass appropriate orders. But, in spite of the repeated directions given by this Court, the respondents have not come forward to comply with the same.

5. The learned Counsel for the petitioners would also submit that therefore, the petitioners were forced to file a Writ of Mandamus in W.P.Nos.23432 to 23436 of 2006 seeking a direction to the respondents 2 and 3 to send the Working Sheets as per the request of the 4th respondent dated 22.01.2004. This Court vide Common Order dated 25.7.2006 held that the lands of the petitioners were acquired in the year 1982 and that the petitioners have also filed necessary applications under Section 28A of the Land Acquisition Act on 01.12.1995 for enhanced compensation. Therefore, their applications filed under Section 28 A of the Land Acquisition Act were well within the time. In view thereof, the respondents cannot issue the impugned order taking a contra view that the petitioners have not moved their applications under Section 28A of the Act within three months prescribed time.

6. Learned Government Advocate appearing for the respondents opposing the above contention of the learned Counsel for the petitioners stated that when the petitioners have come to this Court seeking compensation on par with similarly placed

land owners covered in LAOP.Nos.108 to 116/1989 dated 15.09.1995, they should have moved their applications under Section 28A of the Land Acquisition Act well within 90 days from 15.09.1995.

7. This submission of the learned Government Advocate is rejected for the reason that when 24 petitioners jointly came to this Court by filing W.P.No.23432/2006 for issuance of Writ of Mandamus, directing the Revenue Divisional Officer, Dharmapuri to send the Working Sheets to the Executive Engineer, Public Works Department (Water Resources Organisation), Melpennar Vadinila Kottam, Dharmapuri, the 4th respondent therein as per Letter Nos.220/2004/Tha 2 dated 22.1.2004 so as to enable the petitioners to obtain the compensation amount as per Section 28A of the Land Acquisition Act with a further direction to the respondents 4 and 5 therein to pay the compensation amount to the petitioners, this Court considering the case of both the parties came to the conclusion that the petitioners have filed the necessary applications under Section 28A of the Land Acquisition Act on 01.12.1995. Therefore, considering the order passed by this Court on 27.01.1999 in W.P.No.982/1989 directed the 2nd respondent therein to send the working sheets required by the 4th respondent within a period of four weeks from the date of receipt of a copy of the order with a further direction that on receipt of the Working Sheet, the 4th respondent therein shall consider the case of the petitioners on merits and in accordance with law, within a period of eight weeks thereafter. Further, yet another order passed by this Court in W.P.No.20262/1998 dated 22.12.1998 also shows that the petitioner Mahalingam in W.P.No.6506/2011 is the 20th petitioner in W.P.No.20262/1998 and he has also applied on 01.12.1995 under Section 28-A of the Land Acquisition Act, within three months from the date of the order passed in LAOP.Nos.108 to 116/1989 dated 15.09.1995 and it is more important to state that the said writ petition was disposed of by an order dated 22.12.1998 on the basis of the statement made by the then learned Government Advocate that those applications which are pending will be decided one way or the other, within twelve weeks.

8. At this stage, the learned Government Advocate appearing for the respondents has raised objection that the petitioner in W.P.No.6506/2011 has not made any application on 01.12.1995.

9. But, this Court is unable to find any merit whatsoever in the said submission of the learned Government Advocate. The reason being that a perusal of the affidavit filed in support of W.P.No.23435/2006 clearly shows that that the petitioner in W.P.No.6506/2011 Mr.Mahalingam has sent an application to the District Collector, Dharmapuri under Section 28-A of the Land

Acquisition Act on 01.12.1995. Since on receipt of the said application, the District Collector, Dharmapuri District did not pass any orders, W.P.No.23435/2006 came to be filed by the said Mahalingam along with others and this Court accepting the case of the petitioners therein has issued a Writ of Mandamus by a Common Order dated 25.07.2006. The said direction issued by this Court on 25.07.2006 has become final, since the same was not taken on appeal by the respondents. Therefore, it is not open to the respondents now to say that the petitioners have not filed any application under Section 28-A of the Land Acquisition Act within three months from the date of decree and judgment passed by the learned Subordinate Judge, Dharmapuri District made in LAOP.Nos.108 to 116/1989 dated 15.09.1995.

10. In view of all the above, the Proceedings of the 1st respondent in No.Na.Ka.6443/99/T2 dated 30.8.1999 is hereby set aside. Consequently, the respondents are hereby directed to disburse the enhanced compensation under Section 28-A of the Land Acquisition Act on par with the compensation awarded to the petitioners in LAOP.Nos.108 to 116/1989 dated 15.09.1995 by the learned Subordinate Judge, Dharmapuri along with a cost of Rs.5,000/- each to the petitioners in both the Writ Petitions. The said exercise shall be done within a period of four weeks from the date of receipt of a copy of this Order.

11. At this stage, the learned Government Advocate appearing for the respondents submitted that the order of this Court will be duly complied with by the respondents, therefore, the cost may be withdrawn.

12. Accepting the request made by the learned Government Advocate, the cost portion is withdrawn.

13. With the above observation and direction, the Writ Petitions stand allowed. No Costs. Consequently, connected Miscellaneous Petitions are closed.

s/d-

Assistant Registrar(CS VI)

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Sub-Assistant Registrar

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To

1. The District Collector,
Dharmapuri District, Dharmapuri.
2. The District Collector,
Krishnagiri District, Krishnagiri.
3. The Revenue Divisional Officer/LAO,
O/o.The Revenue Divisional Officer,
Krishnagiri.
4. The Executive Engineer,
Public Works Department
(Water Resources Organisation),
Mel Pennar Vadi Nila Uttkottam,
Dharmapuri-5.
5. The Chief Engineer
(Water Resources Organisation),
Chepauk, Chennai-600 005.
6. The Principal Secretary,
The Commissioner of Land Administration,
Ezhilagam, Chepauk, Chennai-5.
7. The Subordinate Judge
Dharmapuri.

+1 CC to Mr.R.N. Amarnath, Advocate sr 77804.
+1 CC to Govt. Pleader sr 78458.

W.P.Nos.18469/2010 & 6506/2011

CP(CO)
SP(31/10/2019)

सत्यमेव जयते

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