

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2019

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THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Review Application Nos.21 and 22 of 2018

In

A.S.Nos.867 and 868 of 2009

A.J.Babiamma (Deceased)

1.R.Rajeswari

2.A.J.Raghupathy

3.A.J.Sundaramurthy

4.S.Radha

5.A.J.Kalpana

6.R.Gayathiri

7.A.R.Janani

8.A.R.Dhivyabharathi

(Petitioners 1 to 8 brought on record
as LR's of the deceased A.J.Babiamma
vide order of this Court dt.09.01.2018
made in CMP No.21872/17 in
Rev.Appln SR No.75925/2017 (by NSSJ))

... Petitioners in Rev.Appln.21 of 2018

A.J.Babiamma (Deceased)

1.R.Rajeswari

A.J.Ramamurthy (Deceased)

2.A.J.Raghupathy

3.A.J.Sundaramurthy

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- 4.S.Radha
- 5.A.J.Kalpana
- 6.R.Gayathiri
- 7.A.R.Janani
- 8.A.R.Dhivyabharathi

(Petitioners 1 to 5 recognized to the legal representatives of the deceased A.J.Babiamma and petitioners 6 to 8 brought on record as LR's of the deceased A.J.Ramamurthy, vide order of this Court dt.09.01.2018 made in CMP Nos.21871 and 21967/17 in Rev.Appln SR No.75929/2017 (by NSSJ))

... Petitioners in Rev.Appln.22 of 2018

Vs.

1.The Special Tahsildar
Land Acquisition Officer,
C.M.D.A.
Egmore,
Chennai – 600 008.

2.The Chief Executive Officer,
C.M.D.A.
Egmore,
Chennai – 600 008.

... Respondents in both Rev.Applns.

Common Prayer:

Petitions filed under Section 114 read with Order XLVII Rule 1 of Civil Procedure Code praying to review the judgment and decree dated 26.08.2010 in A.S.Nos.867 and 868 of 2009 respectively.

For Petitioners : Mr.R.Ramesh

For Respondents : Mr.J.Balagopal for R1
Special Government Pleader (AS)
Mr.P.S.Ganesh for R2

COMMON ORDER

These two review applications have been filed to review the judgment and decree in A.S.Nos.867 and 868 of 2009 dated 26.08.2010.

2.The learned counsel appearing for the review petitioners would contend that the petitioners' lands were acquired by the respondents for construction of wholesale market at Koyambedu, Chennai. Subsequently an award has been passed fixing the compensation at the rate of Rs.407/- per sq.ft. Not being satisfied with the same, some of the land owners sought for a reference, under Section 18, of the Land Acquisition Act. On such reference, the Reference Court enhanced the compensation at the rate of Rs.825/- per sq.ft.

3.The learned counsel appearing for the review petitioners would further contend that thereafter, most of the land owners filed appeal challenging the award passed by the Reference Court, before this

Court and this Court by judgment dated 26.08.2010 allowed a batch of first appeals, thereby enhancing the compensation from Rs.825/- per sq.ft. to Rs.1,100/- per sq.ft. Thereafter, a set of land owners filed a review petition to review the above said judgment, and this Court by judgment dated 21.06.2017, reviewed the above judgment and decree passed in the appeals, and enhanced the compensation from Rs.1,100/- per sq.ft. to Rs.2,000/- per sq.ft.

4.The learned counsel appearing for the review petitioners would further contend that, aggrieved over the same, the respondents filed Special Leave Petition before the Hon'ble Supreme Court in S.L.P.(Civil) Diary No.24304 of 2018 and the Hon'ble Supreme Court by order dated 22.10.2018 dismissed the Special Leave Petition. Thereafter, a review application was also filed before the Hon'ble Supreme Court for review of the order of dismissal. The Hon'ble Supreme Court by order dated 06.02.2019, dismissed the review application and hence the order passed in the review application has now become final. In the above circumstances, the some of the remaining appellants, who did not file any review petition earlier, have filed the present review applications to review the judgment and decree passed in A.S.Nos.867 and 868 of 2009 dated 26.08.2010.

5.The learned counsel appearing for the review petitioners would further contend that, now the order passed in the connected review application enhancing the compensation at the rate of Rs.2,000/- per sq.ft. has been confirmed by the Hon'ble Supreme Court. Subsequently, on review applications filed by similarly placed land owners, this Court in Review Application No.146 of 2017 and in Review Application No.106 of 2017 has reviewed the judgment and decree dated 26.08.2010, and enhanced the compensation at the rate of Rs.2,000/- along with consequential benefits available under the Act. Since the petitioners are also similarly placed persons, they are also entitled to get the same enhanced amount.

6.Per contra, Mr.J.Balagopal, learned Special Government Pleader (AS) appearing for the first respondent and Mr.P.S.Ganesh, learned counsel appearing for the second respondent would vehemently contend that the review applications are not maintainable. There is no error apparent on the face of the judgment and decree dated 26.08.2010. It was further contended by the learned Special Government Pleader (AS) appearing for the first respondent and by the learned counsel appearing for the second respondent that, in respect of very same land acquisition, in another case, this Court has awarded compensation at Rs.1,460/- only, and submitted that

challenging the above judgment, now a Special Leave Petition is pending before the Hon'ble Supreme Court. In the above circumstances, the relief sought for by the petitioners cannot be granted in these review applications.

7.I have considered the rival submissions.

8.Admittedly, the judgment and decree passed by this Court dated 26.08.2010, in which the petitioners appeals were also disposed of, has already been reviewed by this Court and the compensation has been enhanced to Rs.2,000/- per sq.ft. A challenge to the order passed in the review petition before the Hon'ble Supreme Court was also rejected and subsequent review application was also rejected by the Hon'ble Supreme Court. Hence, the order passed in the review application has become final.

9.It is also brought to the notice of this Court that some other similarly placed land owners filed two more review applications before this Court and this Court also reviewed the judgment and enhanced the compensation to Rs.2,000/- per sq.ft. Since the review petitioners are also similarly placed persons, they cannot be denied of such benefit which was given to the other land owners.

10. In such circumstances, the review applications are allowed and the respondents are directed to pay the compensation at Rs.2,000/- per sq.ft. The petitioners are entitled to get all other consequential benefits available under the Land Acquisition Act.

11. The review applications are allowed. No costs.

25.02.2019

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

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V.BHARATHIDASAN,J.
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