

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16.07.2019

Coram

The Honourable Dr.Justice G.Jayachandran

W.P.Nos.18780 & 18696 of 2019
& W.M.P.Nos.18121 & 18037 of 2019

1. T.Sathiyamurthy,
S/o. Thangamuthu.

2. T.Prakash,
S/o.Thangamuthu.

3. T.Eswaran,
No.86/A, Nehru Street,
Moolapalayam,
Erode - 638 002.

... Petitioners
in W.P.No.18780 of 2019

1. Pushpalatha,
W/o.Balasubramanian.
No.21/22, Karuppannasamy Kovil Street - III,
Surampatti,
Erode - 638 009.

2. Thulasimani,
W/o.Subramaniam.
No.12/39, Ellappalayam Road,
Chinnasemur,
Erode - 638 004.

3. Parimaladevi,
W/o.Mani.
No.105, Lenin Street,
Railway Colony Post,
Erode - 638 002.

4. Susila,
W/o.Kulandaivelu.
No.105, Lenin Street,
Railway Colony Post,
Erode - 638 002.

5. Jeevanantham,
S/o.Vellaisamy,
No.105, Lenin Street,
Railway Colony Post,
Erode - 638 002.
6. Kumutha,
D/o.Nallammal,
W/o.Manoharan,
No.128, Iraniyan Street,
Solar, Erode - 638 002.

... Petitioners
in W.P.No.18696 of 2019

/versus/

1. The District Collector,
Erode District,
Erode - 638 011.
2. The Land Acquisition Officer,
Cum the District Revenue Officer,
Erode District,
Erode - 638 011.

... Respondents
in both W.P's.

W.P.Nos.18780 & 18696 of 2019

Prayer: Writ Petitions filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings of the 2nd respondent in Na.Ka.No.71412/2006/B1, dated 13.11.2018 signed on 15.11.2018 and quash the same as illegal, incompetent and ultravires and consequently direct the respondents to refer the dispute to the competent Court for determination of compensation under Section 8 (1) of the Tamil Nadu Acquisition of Land for Industrial Purpose Act, 1997.

For Petitioners: Mr.R.Shase
in both cases

For Respondents: Mr.D.Raja, Additional Government Pleader
in both cases

C O M M O N O R D E R

Heard the Learned Counsel appearing for the Petitioners and the Learned Additional Government Pleader appearing for the Respondents.

2. The petitioners are erstwhile land owners of S.Nos.1336/1B and 1336/2B. Their lands were acquired for establishment of Bhavani Kattalai Hydroelectric project-II under the Tamil Nadu Acquisition of land for Industrial Purpose Act, 1997. The Acquisition Authority has invited objection, after hearing the petitioners, has fixed the compensation for their land which they received under protest, as it was inadequate comparing to market value.

3. Under Section 8 of the Tamil Nadu Acquisition of land for Industrial Purpose Act, 1997, any person aggrieved by the decision of the Authority regarding fixation of compensation, shall request the Collector to refer the matter for determination of enhanced compensation to the Court, constituted for the said purpose. Accordingly, the petitioners herein has preferred an application to the Collector to refer the matter to the Court for enhanced compensation. However, the District Revenue Officer, Erode District, has rejected their application on the ground, the appeal for enhanced compensation is barred by limitation.

Section 8 of the Tamil Nadu Acquisition of Land for Industrial Purpose, 1997, reads as below:-

Reference to Court :-

(1) Any person aggrieved by the decision of the Collector or the officer to whom the case was transferred, determining the amount may, within sixty days from the date of such decision, in so far as it affects him by application to the Collector or the officer to whom the case was transferred, require that the matter be referred by him for the determination of the Court as defined in the Land Acquisition Act, 1894 (Central Act I of 1894) and when any such application is made, the provisions of Part III of the said Act shall mutatis mutandis apply to further proceedings in respect thereof.

(2) The decisions of the Court on such reference and subject only to such decision, the decision of the Collector determining the amount, shall be final.

4. The Learned Counsel appearing for the petitioners would submit that since the act refers the Land Acquisition Act, 1894 and Part III of the said Act shall apply mutatis mutandis,

the application of the petitioners should have been considered as per the provisions under Land Acquisition Act, 1894 and after the enactment of Land Acquisition, Rehabilitation and Resettlement and Compensation Act, 2013, under Section 64, the Collector ought to have considered his application and condoned the delay of 25 days.

5. The learned Government Advocate appearing for the respondents would submit that under Section 8 of the Tamil Nadu Land Acquisition for the Industrial Purpose Act, 1997, is of two parts, if the representation is given within 60 days, the matter will be referred to the Court as defined under the Land Acquisition Act, 1894 and matter will be decided by the Court, as per the procedures and mandates mentioned in Part-III of the said Act.

6. As far as, the reference of Section 64 of the Tamil Nadu Acquisition Act Rehabilitation and Resettlement and Compensation Act, 2013 is concerned, the learned Government Advocate appearing for the respondents would submit that it has not application to the case in hand. The grievance of the petitioners is that, having lost their land under Acquisition Proceedings and the compensation fixed by the Authority being lesser than the market value, they want to agitate their right and get enhanced compensation. For which they have given the representation to the 2nd respondent to refer the matter to the Court for fixing of adequate compensation. The said application is rejected on the ground that it is filed with the delay of 21 days, since the Act does not provide for any discretion to the Authority to condone the delay. The 2nd respondent has mechanically rejected the request, without considering the provisions of the Land Acquisition Act which applies to the Land Acquisitions under the Industrial Purpose Act 1997 Mutatis Mutandis.

7. This Court, though agree with the submissions made by the learned Government Advocate, regarding the interpretation given by him for Section 8 of the Act, which consisting of two parts and the provisions of Land Acquisition Act shall come into force only when an application is filed within time.

8. However, as far as, this case is concerned, the petitioners have given the representation at the time of award and has received it under protest. In all fairness the matter ought to have been referred by the Authorities themselves to the Court.

9. Since, the 2nd respondent has failed to take note of the fact that the petitioners received their compensation with protest, the delay of 21 days is condoned. Taking note of the other circumstances involved in this case, the 2nd respondent is hereby directed to forward the representation of the petitioners to the Competent Court, for proper adjudication, within eight weeks, from the date of receipt of the order.

10. With these above directions, the Writ Petitions are disposed of. No costs. Consequently, Connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

bsm

To

1. The District Collector,
Erode District,
Erode - 638 011.
2. The Land Acquisition Officer,
Cum the District Revenue Officer,
Erode District,
Erode - 638 011.

+2 ccs to Mr.M.Guruprasad, Advocate, S.R.No.61419 & 61420

+1 cc to the Government Pleader, S.R.No.60753

W.P.Nos.18780 & 18696 of 2019
& W.M.P.Nos.18037 & 18121 of 2019

GP(CO)
SSM(13/08/2019)

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