

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 29.01..2019

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.28538 of 2018

A.Rajasulochana

... Petitioner

-Versus-

1.The District Collector,
Kancheepuram District,
Kancheepuram.

2.The Special Tahsildar,
(Land Acquisition, MEPZ),
Tambaram Taluk,
Kancheepuram District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents to disburse the enhanced compensation for the property comprised in S.No.96 measuring an extent of 0.50 cents situated at Kadaperi Village, Saidapet Taluk (Presently Tambaram Taluk), Kancheepuram District, on the basis of the enhanced award made in L.A.O.P.No.497 of 1987 dated 12.12.1988 and L.A.O.P.No.501 of 1987 dated 13.02.1990 and subsequent common order passed in W.P.Nos.15379, 15380, 16936 and 17055 of 1992 dated 14.10.1994 as claimed by the petitioner in his representation dated 16.08.2018.

For Petitioner : Mr.R.Thanjan

For Respondent(s) : Mr.M.Elumalai,
Government Advocate
for R1 and R2

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ORDER

This writ petition has been filed seeking a writ in the nature of mandamus directing the respondents to re-determine the amount of compensation under Section 28-A of The Land Acquisition Act, 1894 after the Award of the learned Additional Subordinate Judge, Poonamallee, dated 12.12.1988 made in L.A.O.P.No.497 of 1987 and Award dated 13.02.1990 made in L.A.O.P.No.501 of 1987 and the subsequent common order of this

court made in in W.P.No.15379,15380, 16936 and 17055 of 1992 and to disburse the enhanced amount of compensation payable to the petitioner in respect of his land comprised in S.No.96 measuring an extent of 50 cents situated at Kadaperi Village, Tambaram Taluk, Kancheepuram District.

2. According to the petitioner, his land was acquired by the State Government in the year 1986 and an award was also passed. Subsequently, based on the objections from the aggrieved similarly placed adjacent land owners whose lands were also acquired in and by the very same notification, reference were made under Section 18 of the Land Acquisition Act, 1894 to the learned Subordinate Judge, Poonamallee, and the reference court in and by its Award dated 12.12.198 made in L.A.O.P.No.497 of 1987 and Award date 13.02.1990 made in L.A.O.P.No.501 of 1987 had enhanced the amount of compensation. Pursuant to the order of the reference court, the petitioner had sent an application to the 1st respondent on 24.01.1987 under Section 28-A of the Act seeking to re-determine the amount of compensation based on the Award of the learned Subordinate Judge, Poonamallee in L.A.O.P.No.497 of 1987 and L.A.O.P.No.501 of 1987 dated 12.12.1988 and 13.02.1990 respectively. When the above application was not considered, the petitioner approached this court by way of W.P.No.17055 of 1992 before this court seeking a writ of mandamus to the respondents for considering his representation for redetermination of amount of compensation and payment of compensation and this court, by order dated 14.12.1994, directed the 1st respondent to consider the petitioner's application for re-determination of compensation as expeditiously as possible based on the order dated 12.12.1988 passed in L.A.O.P.No.497 of 1987 and order dated 13.02.1990 passed in L.A.O.P.No.501 of 1987 on the file of the Subordinate Judge, Poonamallee. Thereafter, an award enquiry was conducted by the Tahsildar on 20.11.2003 and another enquiry was conducted by the District Collector, Kancheepuram, on 14.11.2005. The grievance of the petitioner is that despite directions from this court and the subsequent representations, no amount of compensation has been paid.

3. Today, when the matter came up for hearing, the learned Government Advocate, on instructions, submitted that after the enquiry which was stated to have been conducted on 14.11.2005 at the Office of the Collectorate, the records were unfortunately found missing and the officers / staff concerned are not in a position to trace out the same despite a thorough search and as such no further order could be passed in the matter.

4. It is a case where this court had already passed an order on 14.12.1994 in W.P.No.17055 of 1992 wherein it was held that the petitioner filed an application under Section 28-A of the Act in time and this court had directed the District Collector, to re-determine the amount of compensation based on the award passed by the learned Subordinate Judge, Poonamallee, in L.A.O.P.No.497 of 1987 dated 12.12.1988. Pursuant to the same, appropriate enquiry was conducted by the Tahsildar and also by the District Collector. Now, after a lapse of almost 24 years, the respondent cannot say that the records are found missing. However, it is not in dispute that the petitioner submitted his application for enhancement of compensation under Section 28-A of the Act within the time stipulated under the Act and this court had also issued a positive direction to the 1st respondent to re-determine based on the award dated 12.12.1988 made in L.A.O.P.No.497 of 1987. Since it was submitted that the entire records relating to the re-determination of amount of compensation under Section 28-A of the Act in respect of the petitioner's land are found missing, the petitioner is directed to submit a copy of his application, if available, or a fresh application along with a certified copy of the judgement in A.S.No.151 of 1991 and a certified copy of the award in L.A.O.P. No.497 of 1987 to the 1st respondent for re-determination of amount of compensation and on receipt of the same, the 1st respondent is directed to re-determine the compensation.

5. In the result, this writ petition is disposed of with a direction to the petitioner to submit a copy of the application, which was submitted by him earlier before the 1st respondent, or a fresh application along with certified copy of the judgement of this court in A.S.No.151 of 1991 and Award dated 12.12.1988 in L.A.O.P.No.497 of 1987 on the file of the learned Subordinate Judge, Poonamallee, before the 1st respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of such application from the petitioner, the 1st respondent is directed to consider and re-determine the amount of compensation in accordance with Section 28-A of the Act and pass suitable orders thereof within a period of eight weeks thereafter. No costs.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

kmk

To

1.The District Collector, Kancheepuram District, Kancheepuram.

2.The Special Tahsildar, (Land Acquisition, MEPZ), Tambaram Taluk, Kancheepuram District.

+1cc to Mr.R.Thanjan, Advocate SR.No.7463

+1cc to Government Pleader SR.No.7625

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SV(CO)
GMY(05/03/2019)



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