

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.32656 of 2018

1.C.Govindasamy
2.S.Karuppusamy
3.S.Arunachalam

..Petitioners

Vs

1.The District Collector,
Office of the District Collector,
Erode.

2.The Revenue Divisional Officer,
Land Acquisition,
Erode District, Erode.

3.The Special Tahsildar,
Sampath Nagar Neighbourhood,
Surampatti, Erode.

4.The Chairman,
Tamilnadu Housing Board,
Nandanam, Chennai - 600 035.

..Respondents

Prayer:- This Writ Petition is filed, under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the respondents to determine higher and proper compensation to the petitioners with reasonable interest within a time frame that may be fixed by this Hon'ble Court.

For Petitioners : Mr.Nandhakumar
For Respondents : Mr.M.Elumalai, GA

ORDER

By consent of both sides, this Writ Petition is taken up for final disposal.

2 Writ Petition is filed praying to issue a writ of Mandamus, directing the respondents to determine higher and proper compensation to the petitioners with reasonable interest within a stipulated time frame.

3 The grievance expressed by the petitioners is that despite their land having been acquired by the respondents for construction of Housing Board Buildings as per G.O.M.S.No.156/73, dated 27.12.1973, the compensation given to them was on lower side and hence, they had submitted an application on 10.02.1997 before the First Respondent/District Collector, seeking enhancement of the said compensation under Section 28 A of the Land Acquisition Act. Further, the first petitioner, his brother late.Sengottaiyan and the second petitioner herein filed W.P.No.3849 of 1997 before this Court and by order dated 15.09.1998, this Court had directed the first respondent to entertain the application filed by the petitioners under Section 28-A of the Land Acquisition Act and to pass orders within five months from the date of receipt of the order. Pursuant thereto, the petitioners sent written reminders to the first and second respondents seeking for higher compensation, but, the same was not considered. Hence, the present writ petition.

4 This Court by an order dated 28.02.2019, directed the first respondent/District Collector to conduct an enquiry and to submit a report before this Court as to why the earlier order of this Court, dated 15.09.1998 has not been complied with.

5 As per the directions of this Court, vide order dated 28.02.2019, today, a status report has been filed by the first respondent/District Collector. In the said Status Report, the First Respondent/District Collector has stated that the Writ Petitioners namely, Govindasamy, Karupanasamy and Arunachalam were called for enquiry and the enquiry was conducted on 08.03.2019.

6 On the basis of the written statement submitted by the petitioners on 08.03.2019 before the First Respondent/District Collector, it is seen that the First and the Second Petitioner alone are eligible for the enhanced compensation under Section 28 A of the Land Acquisition Act, for the share of their land acquired. Since the Third Petitioner has not given any petition under Section 28 A of the Land Acquisition Act, for enhanced compensation, on 10.02.1997 or afterwards, he is not eligible for the enhanced compensation. As per the provisions of Section 28 A of Land Acquisition Act, 1984, petitioner has to file a written application before the First Respondent/District Collector within three months from the date of the Award of the Court being passed. Since, the Third Petitioner has not filed a written application on or before 31.03.1997, he is not eligible for the enhanced compensation.

7 It is further submitted by the first respondent/District Collector in the Status Report that an

extent of 1.60 Hec(3.95 Acres) of land in R.S.No.406 of Erode Village was ordered by the third respondent for acquisition in award no.1/80 dated 29.02.1980. Out of this, an extent of 1.21 acres (52882 sq.ft) of land has been reconveyed by the Housing Board in the same survey number to the land owners in Survey Number.406. But, the proportion of land reconveyed to the land owners could not be ascertained. Hence, a report was sought for from Executive Engineer, Housing Board, Erode vide letter Na.Ka.No.36574/2016/B1, dated 08.03.2019, in respect of the extent of land reconveyed. Therefore, the First and the Second Petitioner's request for enhancement of compensation will be considered on receipt of the report from the Executive Engineer, Housing Board and the exact enhanced compensation amount will be calculated and communicated to the Housing Board for payment of the same to the First and Second petitioners.

8 In the light of the report submitted by the First Respondent, the learned counsel for the petitioners submitted that the said enhanced amount should be paid to the petitioners eligible for the enhanced compensation, within a stipulated time.

9 By considering the said submissions and accepting the said report, this Court observes that the First Petitioner and the Second Petitioner alone are eligible for the enhanced compensation. The enhanced compensation to be awarded to the First Petitioner is subject to his production of necessary documents, and satisfying the first respondent that he is the legal heir of his brother, late.Sengotavan. Insofar as the Third Respondent is concerned, it is made clear that as per the report, the Third Petitioner is not entitled to any enhanced compensation under Section 28 A of the Land Acquisition Act. The First Respondent/District Collector is directed to complete the exercise within a period of 12 weeks from the date of receipt of a copy of this order.

10 The writ petition stands disposed of with the above direction. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

tsg

To

1.The District Collector,
Office of the District Collector,
Erode.

2.The Revenue Division Officer,
Land Acquisition,
Erode District, Erode.

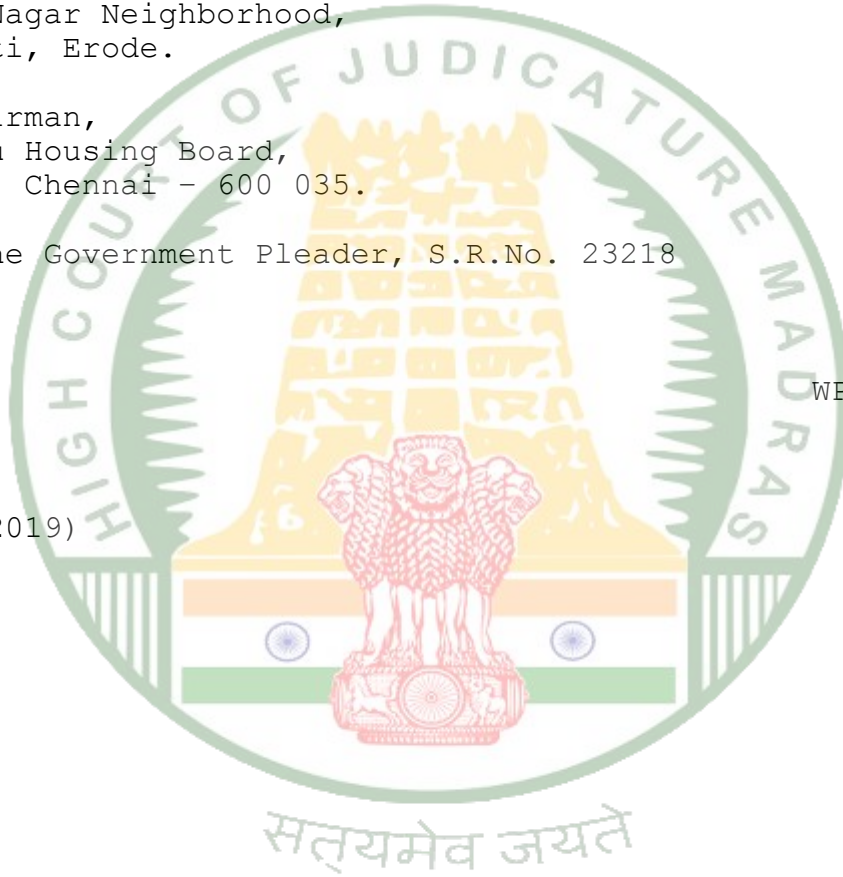
3.The Special Tahsildar,
Sampath Nagar Neighborhood,
Surampatti, Erode.

4.The Chairman,
Tamilnadu Housing Board,
Nandanam, Chennai - 600 035.

+1cc to the Government Pleader, S.R.No. 23218

WP.32656/2018

SSV(CO)
GN(08/05/2019)



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