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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 01.11.2018

DELIVERED ON : 03.01.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD).Nos.2375 & 2376 of 2018 and

C.M.P.(MD)Nos.10616 & 10617 of 2018

1. Land Acquisition Officer/
Revenue Divisional Officer,
Palani.
 2. The Chief Engineer,
Public Works Department,
Pollachi Region,
Coimbatore.
 3. The Superintendent Engineer,
Public Works Department,
Palani.
 4. The Executive Engineer,
Public Works Department,
Nanganchiyar Water Resource,
Basin Division,
Palani.
- ... Revision Petitioners/
Respondents/Respondents
in both petitions

Vs.

1. M/s.Narendra Dairy Farms (P) Ltd.,
Represented by its Director,
V.Duraisinga Lakshmana Naicker,
(Demised)
 2. D.Rajesh
 3. D.Satheesh Kumar
 4. R.Jegadeesh Kumar
- ... Respondents/Petitioners/
Claimants in both petitions

COMMON PRAYER : Civil Revision Petitions are filed under Article 227 of the Constitution of India, against the fair and decreetal order passed in E.P.Nos.72 and 73 of 2018 in L.A.O.P.Nos.6 and 7 of 1996, dated 27.09.2018 on the file of the learned Additional District Judge(Fast Track), Palani.



(in both C.R.Ps.)

For Petitioners : Mr.M.Karuppasamy,
Government Advocate.

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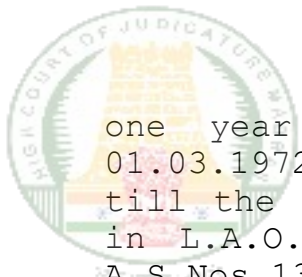
For Respondents : Mr.A.Ramesh

C O M M O N O R D E R

The lands measuring an extent of 410.92 Acres belonging to the respondents were acquired by the Revision petitioners for the purpose of construction of a dam. Notification under Section 4(1) of the Land Acquisition Act 1894 was issued on 19.01.1972. Possession was taken on 01.03.1972. But the authorities failed to take follow-up action and as a result, the notification dated 19.01.1972 got lapsed. Thereafter, proceedings under the Tamil Nadu Urban Land (Ceiling and Regulation) Act were initiated by the Government. This was questioned by the respondents by filing W.P.Nos.119 and 120 of 1974. The Writ petitions were allowed on 09.04.1979. W.A.Nos.677 and 678 of 1979 filed by the Government questioning the order dated 09.04.1979 allowing the Writ petitions were dismissed by the Hon'ble Division Bench on 17.09.1986.

2. The proceedings initiated under the Land Acquisition Act 1894 stood lapsed. The land ceiling proceedings did not even take off. In order to overcome the situation, the Government issued a fresh notification under Section 4(1) of the Land Acquisition Act 1894 on 11.09.1990. The fresh notification was issued in respect of the very same land. Interestingly, the Government did not hand over the possession and it had already completed the construction of the dam also.

3. Therefore, the only issue that remained for consideration was the quantification of compensation payable to the land owners/respondents herein. The Land Acquisition officer passed an award on 10.02.1993 fixing Rs.6,880/- as market value per acre. This was received by the land owners under protest and a request was made for making reference under Section 18(1) of the Land Acquisition Act. The reference Court by award dated 17.04.2000 fixed the market value at Rs.35,000/- per acre in respect of the adjacent land that was acquired for the same purpose. It also awarded interest at the rate of 9% for the first year and 15% for the remaining period from the date of dispossession i.e. 01.03.1972. In view of such development, the land owners filed W.P.No.14348 of 2000 before the High Court for disbursing the compensation to them on the same lines. By order dated 11.12.2000, the very same direction was issued in the case of the respondents also. Thereafter, the reference Court/Sub Court, Palani, by award dated 23.02.2001 fixed the compensation at Rs.15,000/- per acre and directed the authorities to pay solatium at 30%, additional compensation at 12% and interest at the rate of 9% per annum for



one year from the date when the possession was taken i.e. 01.03.1972 and thereafter interest at 15% p.a. was to be payable till the date of payment. Aggrieved by the award dated 27.06.2001 in L.A.O.P.Nos.6 and 7 of 1996, the Revision petitioners filed A.S.Nos.132 and 133 of 2001. The land owners filed Cross Objection Nos.14 and 15 of 2003. The appeals and cross objections were disposed of on 17.03.2003, as follows:-

"11. In all,

i) the respondents are entitled for a compensation at the rate of Rs.28,000/- per acre.

ii) Additional amount of 12% per annum or the compensation as contemplated under Section 23(1A) of the said Act.

(iii) Solatium of 30% on the compensation.

(iv) The interest is at the rate specified in Section 34 of the Land Acquisition Act as awarded by the Court below, in respect of all the three components as held by the Supreme Court in the case of SUNDAR VS. UNION OF INDIA reported in AIR 2001 S.C. 3516."

4. The applications filed by the Revision petitioners herein for review of the said Judgment and Decree were dismissed on 08.12.2005. Thereafter, the land owners filed clarificatory applications in C.M.P.Nos.35 to 38 of 2009 in review application Nos.78 to 80 of 2004 in A.S.Nos.132 and 133 of 2001 and Cross Objection Nos.14 and 15 of 2003. In substance, the prayer of the land owners was that they are entitled to additional compensation, solatium and interest from the date of dispossession i.e. from 01.03.1972 till the award dated 10.02.1993. The said clarificatory applications were disposed of on 21.10.2009 by directing the Government to pay interest at 9% for the period which the land owners were forced to be out of possession of their lands. It was held that the land owners are entitled to interest/damages at the rate of 9% on the compensation granted for the period from 01.03.1972, the date of taking possession of the land till 10.09.1990, the previous date of issuance of Section 4(1) Notification. From 11.09.1990, the date of second Section 4(1) notification till 10.02.1993 the date of award, the land owners were held entitled to additional amount as per Section 23(1-A) of the Act. Questioning the same, the land owners filed C.A.Nos.10078 to 10081 of 2010. The Hon'ble Supreme Court dismissed the civil appeals filed by the land owners specifically holding that there is no substance in the said appeals. The Revision petitioners herein had also filed C.A.Nos.10082 to 10085 of 2010. The land owners then filed E.P.Nos.72 and 73 of 2018 before the Additional District Court/Fast Track Court, Palani. In E.P.No.72 of 2018, the land owners filed a calculation memo claiming a sum of Rs.11,17,67,767/-. In E.P.No.73 of 2018, they filed a calculation memo claiming a sum of Rs.17,96,21,153/-. This was contested by the Revision petitioners. The executing Court by the impugned orders



dated 27.09.2018 accepted the calculation memos filed by the land owners and directed the Revision petitioners to pay the said amount with interest at the rate of 15% with effect from 04.06.2015. Challenging the said orders passed by the executing Court, these Civil Revision petitions have been filed.

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5. Heard the learned counsel appearing for the Revision petitioners and the learned counsel appearing for the land owners.

6. The learned counsel appearing for the land owners also filed their written submissions and placed particular reliance on the decisions of the Hon'ble Supreme Court reported in (2007) 9 SCC 650 (Madishetti Bala Ramul V. Land Acquisition Officer) and (2006) 8 SCC 457 (Gurpreet Singh V. Union of India).

7. Two issues arise for consideration. The first one is whether the Revision petitioners are justified in appropriating the part payments made by them first towards market value and then towards additional market value and thereafter towards interest payable under Section 34 of the Land Acquisition Act. This issue is no longer *res integra*. The Hon'ble Supreme Court in the decision reported in (2006) 8 SCC 457 (Gurpreet Singh v. Union of India) held as follows:

"28. Going by this principle and for the moment keeping out the scheme of the Land Acquisition Act, it appears to us that on payment or deposit of the amount awarded by the Collector in terms of Section 11 read with Section 31 of the Act, the claimant cannot thereafter claim any interest on that part of the compensation paid to him or deposited for the payment to him once notice of deposit is given to him. Thereafter, when the Reference Court enhances the compensation with consequential enhancement in solatium and interest under Section 23 (1A) of the Act and further awards interest on the enhanced compensation in terms of Section 28 of the Act, the claimant/deed holder can seek an appropriation of the amounts deposited pursuant to that award decree, only towards the enhanced amount so awarded by the reference court. While making the appropriation, he can apply the amount deposited, first towards the satisfaction of his claim towards interest on the enhanced amount, the costs, if any, awarded and the balance towards the land value, solatium and the payment under Sections 23 (1A) of the Act and if there is a shortfall, claim that part of the compensation with interest thereon as provided in Section 28 of the Act and as covered by the



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award decree. Once the sum enhanced by the Reference Court, along with the interest is deposited by the State, there will be no occasion for the claimant/awardee to seek a reopening of the amount awarded by the Collector, substituted by the amount awarded by the Reference Court and seek to have a re-appropriation of the amount towards what is due. Same would be the position in a case where the amount awarded by the Reference Court, including the interest is deposited, but the amount is further enhanced in appeal by the High Court. Again, the same principle would apply. The principle would continue to apply when the Supreme Court awards further enhancement in a further appeal to that Court. But if after the award by the Reference Court, the amount is not deposited by the State, interest would run on the compensation in terms of Section 28 of the Act on that amount as provided in Section 28. The same would be the position regarding the enhancement given in appeal by the High Court and in the enhancement given in appeal by the Supreme Court. The mandate of Section 34 and Section 28 that interest would run from the date the Collector takes possession till the particular amount is deposited as provided in those sections, ensures that the claimant is recompensed adequately. Section 28 ensures such recompense at each stage of enhancement of compensation."

8. The authorities are placing reliance of internal memo dated 11.03.2005. Therefore, this Court will have to concur with the stand of the respondents' counsel that the manner of appropriation made by the Revision petitioners is against the law laid down by the Hon'ble Supreme Court. But the larger question is whether the land owners are entitled to claim additional compensation, interest etc., from the date of their dispossession that is 01.03.1972 till 10.09.1990 when the notification under Section 4(1) of the Act was issued.

9. As already stated, this issue had been settled by order dated 21.10.2009 by the Hon'ble Division Bench in the clarificatory petitions filed by the land owners. The same was also confirmed by the Hon'ble Supreme Court. Compensation payable to the land owners will be in two parts. The second notification under Section 4(1) of the Land Acquisition Act was issued on 11.09.1990. Therefore, they will be entitled to all the statutory benefits payable to them in terms of the Judgment and Decree dated 17.03.2003 in A.S.Nos.132 and 133 of 2001 and Cross Objection Nos.14 and 15 of 2003. On the



compensation fixed at Rs.28,000/- per acre for the period of dispossession from 01.03.1972 till 10.09.1990, they would be entitled to interest at the rate of 9% p.a. as damages. This amount represents the compensation payable to the land owners. Therefore, the Revision petitioners are entitled to appropriate the payments made by them against this amount, once the interest component is satisfied. The executing Court failed to take note of this. Therefore, the orders impugned in these Civil Revision petitions are set aside and the matter is remitted to the file of the executing Court and both the parties will file revised calculation memo in terms of this order.

10. These Civil Revision petitions stand allowed, accordingly. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Writs)

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Sub Assistant Registrar(CS)

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To

1.The Additional District Judge(Fast Track),
Palani.

2.The Subordinate Judge, Palani.

C.R.P. (MD) .Nos.2375 & 2376 of 2018 and
C.M.P. (MD) Nos.10616 & 10617 of 2018
03.01.2019

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