



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 03.12.2020
PRONOUNCED ON : 09.12.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

WP NOS.6000, 11981, 11979, 11982, 11977 OF 2020
AND WMP NOS.14719, 14716, 14709, 14712 OF 2020

WP No.6000 of 2020

1. Elachiana Gounder @ Elaiya Gounder

2. Ramasamy

3. Samiyathal

4. M.Moorthy

5. M.Saravanan

6. K.Viswanatha Gounder

7. Kandappa Gounder

8. K.Jayaraj

9. Arunachalam

10. M.Palanisamy

11. Kannammal

12. V.Shanmugam

13. Sampooram

14. B Sasi Kumar

15. P.Nagendran

16. Tamil Selvi

17. C.Pavathal

18. C.Thirumoorthy

19. C.Boopathy

20. R.Palanisamy

21. R.Subramani@ Subburayan

22. Nallammal

23. T.Palanisamy

24. Loganathan

25. P.Shanmugam

26. M.P.Chinnasamy

27. Samiyathal

28. Annakodi

सत्यमेव जयते

...Petitioners in WP No.6000 of 2020

Vs.

1. The State of Tamil Nadu,
rep. By The Secretary to Government,
Department of Housing and Urban
Development, Secretariat, Chennai 600 009.

2. The District Collector,
Collectorate,
Erode - 638 011
Erode District.

3. The Revenue Divisional Officer,
Brough Road,
Erode - 638 001.

4. The Special Tahsildar,
Neighbourhood Scheme,
Brough road,
Erode - 638 001

...Respondents in WP No.6000 of 2020

WP No.11977, 11979, 11981 and 11982 of 2020

1. Sulochana

2. P.Janaki

...Petitioners in WP No.11977 of 2020

1. D.Saraswathi

2. D.Senthil Kumar

3. D.Tamilarasu

...Petitioners in WP No.11979 of 2020

1. C.Subramani

2. M.P.Duraisamy

3. P.Chenniappan

4. Rukamani

5. Padmavathi

6. Rajeswari

...Petitioners in WP No.11981 of 2020

1. Gajalakshmi

2. Thulasi Mani

3. Bhuvana Devi

4. Dinesh Kumar

...Petitioners in WP No.11982 of 2020

Vs.

1. The District Collector,
Erode District.
Erode

2. The Revenue Divisional Officer,
Erode
Erode District.

3. The Executive Engineer/
Administrative Officer,
Tamil nadu Housing Board,
Sampath Nagar, Erode - 11

WP No.11977, 11979, 11981
and 11982 of 2020

Common Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order made in Na.Ka.LAOP 2/02 and 3/02 HB dated 28.02.2014 (Prayer in WP No.6000 of 2020) Letter No.LA.1/LA.00216/2020 dated 21.02.2020 (Prayer in WP No.11977 of 2020) Letter No.LA.1/LA.00214/2020 dated 21.02.2020 (Prayer in WP No.11979 of 2020) Letter No.LA.1/LA.00214/2020 dated 21.02.2020 (Prayer in WP No.11981 of 2020) Letter No.LA.1/LA.00216/2020 dated 21.02.2020 (Prayer in WP No.11982 of 2020) passed by the 3rd respondent, quash the same and consequently, direct the respondents to re-determine the compensation amount U/s 28A of the Land Acquisition Act, 1894, for our lands acquired, in compliance with the orders passed by the Hon'ble Supreme Court in Valliammal case (2011(8) SCC 91) and in Samiyathal case (SLP © No.867-868 dated 05.07.2013).

For Petitioners : Mr.N.Manoharan
for WP No.6000 of 2020
Mr.C.Prakasam
for WP No.11977, 11979, 11981
and 11982 of 2020

For Respondents : 1.Mr.A.Arul Doss
Government Advocate for Respondents in
WP.No.6000 of 2020
2.Mr.Ezhumalai
Government Advocate for R1 & R2
WP No.11977, 11979, 11981
and 11982 of 2020
3.Mr.S.R.Rajagopal
Additional Advocate General
Assisted by
Mr.I.Sathish, Standing Counsel
for R3 in all WPs

COMMON ORDER

The issue involved in all these writ petitions pertains to the claim made by the petitioners for enhancement of compensation placing reliance upon the orders passed by the Hon'ble Supreme Court in Valliammal Case reported in 2011 8 SCC 91 and in Samiyathal case in Civil appeal Nos. 5335 - 5336 of 2013, dated 05.07.2013. Hence, all these writ petitions are taken up together, heard and disposed of through this common order.

2. The State of Tamil Nadu in exercise of its powers issued various notifications under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter called as 'The Act') dated 22.05.1991, 27.05.1991, 08.04.1992, 15.03.1995 and 17.01.1997 and acquired a vast extent of property for establishing a housing scheme called as Muthambalayam Housing scheme. The lands belonging to the petitioners were also acquired under these notifications. Thereafter, the process of determining the compensation and passing the award was undertaken and the land acquisition officer fixed the market value for the land at the rate of Rs. 50,000 per acre by an award dated 25.03.1998.

3. Many of the land owners felt aggrieved by the compensation fixed by the land acquisition officer and hence, filed applications under Section 18(1) of the Act and sought for a reference by claiming for a compensation at the rate of Rs. 50 per sq. ft. The matter was referred to the concerned Court for determination of the compensation payable to the landowners. The Reference Court passed various orders by fixing various rates ranging from Rs. 16 to Rs 30 per sq. ft., considering the facts and circumstances of each case. Aggrieved by the quantum fixed by the Reference Court, the Special Tahsildar, Neighborhood scheme, filed appeals before this Court. All the appeals were heard together and orders were passed reducing the amount fixed by the Reference Court, ranging from Rs. 8 to Rs. 12.

4. Some of the land owners filed Civil appeals before the Hon'ble Supreme Court and all the appeals were heard together and a common order was passed, which is reported in the case of [Valliyammal and another Vs. Special Tahsildar (Land Acquisition) and another] in 2011 8 SCC 91. The relevant portions in the order are extracted hereunder:

8. The facts of the other appeals have been incorporated in a statement, which is marked as Schedule A and shall be treated as part of this judgement:-

SCHEDULE A

Sl. No.	SLPs (C) Nos. and name of parties	Date of Section 4(1) notification	Date of award by the LAO and the compensation	Date of the Reference Court order and amount fixed	Date of the High Court judgment in Appeal Suits Nos. and rate fixed
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1. 22086-87 of 19-3-21-6-2000 and 4-7-2003 28-4-2009
2009 – 1997 Rs 50,000 per acre and Rs 28 in ASs Nos.
Valliyammal per square 200 and 201
and Another v. foot of 2009 and
Special Rs 12 per
Tahsildar square foot
(Land
Acquisition),
Erode and
Another
2. 25591 of 2009 17-1-3-3-2000 and 24-3-2005 2-3-2009 in
– Thangamuthu 1997 Rs 50,000 per AS No. 706
Gounder v. acre and Rs 30 of 2006 and
Special per square
Tahsildar foot Rs 12 per
(Land square foot
Acquisition),
Erode and
Another
3. 25587-90 of 15-4-10-6-1994 and 27-11-2002 2-3-2009 in
2009 – Mohan 1991 Rs 37,500 per ASs Nos.
and Others, acre and Rs 20 813, 820,
etc. v. per square 821 and 822
Special foot of 2003 and
Tahsildar Rs 8 per
(Land square foot
Acquisition),
Erode and (Rs
Another 3,48,480
per acre)
4. 25596-97 of 9-10-28-9-1994, 10-30-3-2001 2-3-2009 in
2009 – K.R. 1990/16-6-1994 and Rs and Rs 16 ASs Nos.
Palaniappan v. 4-1991 37,500 per per square 170 of 2003
Special acre foot and 871 of
Tahsildar 2006 and Rs
(Land 8 per
Acquisition), square foot
Erode and
Another

5. 33777-82 of 15-4- 10-6-1994 and 16-4-1999 2-3-2009 in
2009 – 1991 Rs 37,500 per acre and Rs 2,18,500 per acre ASs Nos.
Ramayammal and Others v. Special Tahsildar (Land Acquisition), Erode and Another 759 to 764 of 1999 and Rs 8 per square foot (Rs 3,48,480 per acre)
6. 33808 of 2009 27-5- 3-7-1994 and 27-11-2006 2-3-2009 in
– Vishwanatha 1991 Rs 37,500 per acre and Rs 20 AS No. 721
Gounder v. Special Tahsildar (Land Acquisition), Erode per square foot of 2003 and Rs 8 per square foot (Rs 3,48,480 per acre)
7. 2194-200 of 19-2- 31-6-2000 and 29-11-2002 2-3-2009 in
2010 – 1997 Rs 50,000 per acre and Rs 28 ASs Nos.
Veerasamy and Others v. Special Tahsildar (Land Acquisition), Erode and Another 727, 729, 730, 731, 732, 733 and 734 of 2003 and Rs 12 per square foot
8. 12581 of 2010 – N. 12-2- 3-3-2000 2-3-2006 8-7-2009 in
Pazhanisamy 1997 and Rs 50,000 per acre (Rs 1.15 per square foot) AS No. 854
Gounder v. Special Tahsildar (Land Acquisition), Erode and Another per square foot of 2006 and Rs 12 per square foot (Rs 5,22,720 per acre)
9. 22831 of 2010 – 15-4- 10-6-1994 25-10- 2-3-2009 in
Arumugha Gounder 1991 and Rs 37,500 per acre 1999 and AS No. 325
and Another v. Special Tahsildar (Land Acquisition), Erode and Another Rs 17 per square foot of 2000 and Rs 8 per square foot (Rs 3,48,480 per acre)

10. 23654 of 2010 – 8-4-1992 22-5-1995 26-3-2007 11-12-2009
Kulanthaiswamy and and Rs and Rs 20 in AS No.
Another v. Special 37,500 per 428 of 2008
Tahsildar (Land per acre square and Rs 8 per
Acquisition), foot square foot
Erode and Another
11. 23655 of 2010 – 8-4-1992 22-5-1995 26-3-2007 11-12-2009
K.B. and Rs and Rs 20 in AS No.
Dakhinamoorthy and 37,500 per 543 of 2008
Others v. Special per acre square and Rs 8 per
Tahsildar (Land foot square foot
Acquisition),
Erode and Another
12. 23656 of 2010 – P. 8-4-1992 22-5-1995 26-3-2007 11-12-2009
Chandrasekar and and Rs and Rs 20 in AS No.
Others v. Special 37,500 per 610 of 2008
Tahsildar (Land per acre square and Rs 8 per
Acquisition), foot square foot
Erode and Another
13. 23657 of 2010 – 15-4- 10-6-1994 4-1-2006 11-12-2009
Pavayammal and 1991 and Rs and Rs 20 in AS No.
Others v. Special 37,500 per 1002 of 2007
Tahsildar (Land per acre square and Rs 8 per
Acquisition), foot square foot
Erode and Another
14. 23658 of 2010 – 15-3- 25-3-1998 6-2-2006 11-12-2009
Lakshmi and 1995 and Rs and Rs 22 in AS No.
Another v. Special 39,220 per 356 of 2007
Tahsildar (Land per acre square and Rs 8 per
Acquisition), foot square foot
Erode and Another
15. 23659 of 2010 – 15-4- 10-6-1994 29-11- 11-12-2009
Kannammal and 1991 and Rs 2005 and in AS No.
Others v. Special 37,500 Rs 20 per 748 of 2008
Tahsildar (Land per acre square and Rs 8 per
Acquisition), foot square foot
Erode and Another

16. 23666 of 2010 – 15-3- 25-3-1998 29-11- 11-12-2009
Kannammal @ 1995 and Rs 2002 and in AS No.
Rajeshwari and 50,000 Rs 28 per 770 of 2004
Another v. Special per acre square and Rs 8 per
Tahsildar (Land foot square foot
Acquisition),
Erode & Another
17. 23669 of 2010 – 27-5-1991 10-6-1994 29-11- 11-12-2009 in
Kannammal and and Rs 2005 and AS No. 760 of
Others v. 37,500 per Rs 20 per 2008 and Rs 8
Special acre square per square
Tahsildar (Land foot square foot
Acquisition),
Erode and
Another
18. 23641 of 2010 – 27-5-1991 3-7-1994 23-3-2001 2-3-2009 in
Chinnasamy and and Rs and Rs 17 AS No. 618 of
Others v. 37,500 per per 2003 and Rs 8
Special acre square per square
Tahsildar (Land foot square foot
Acquisition),
Erode and
Another
19. 23643 of 2010 – 9-10-1990 28-9-1994 17-1-2005 2-3-2009 in
K.N. Arumugham and Rs and Rs AS No. 756 of
v. Special 37,500 per 75,000 2008 and Rs 8
Tahsildar (Land acre per acre per square
Acquisition), foot (Rs
Erode and 3,48,480 per
Another acre)
20. 26825 of 2010 – 27-5-1991 3-8-1994 27-3-2008 19-12-2009 in
Thambusamy and Rs and Rs 9 AS No. 835 of
(Dead by LRs.) 37,500 per per 2008 and Rs 8
v. Special acre square per square
Tahsildar (Land foot square foot
Acquisition),
Erode and
Another

21. 1961 of 2011 – 19-2-1997 31-6-2000 31-3-2004 2-3-2009 in
Nachimuthu v. and Rs and Rs 28 AS No. 544 of
Special 50,000 per per 2005 and Rs
Tahsildar (Land acre square 12 per square
Acquisition), foot foot (Rs
Erode and 5,22,720 per
Another acre)
22. 2187 of 2011 – 19-3-1997 21-6-2000 29-2-2005 8-7-2009 in
Kannaki and and Rs and Rs 30 AS No. 141 of
Another v. 50,000 per per 2006 and Rs
Special acre square 12 per square
Tahsildar (Land foot foot (Rs
Acquisition), 5,22,720 per
Erode and acre)
Another
23. 1147 of 2011 – 19-3-1997 21-6-2000 4-4-2006 8-7-2009 in
Jayalakshmi and and Rs and Rs 25 AS No. 181 of
Others v. 50,000 per per 2007 and Rs
Special acre square 12 per square
Tahsildar (Land foot foot (Rs
Acquisition), 5,22,720 per
Erode and acre)
Another
24. 3520 of 2011 – 22-5-1991 10-8-1994 21-11- 8-7-2009 in
P. Subbarayan and Rs 2005 and AS No. 392 of
and Others v. 37,500 per Rs 17 per 2007 and Rs 8
Special acre (Rs square per square
Tahsildar (Land 0.86 per foot foot (Rs
Acquisition), square foot 3,48,480 per
Erode and foot) acre)
Another

25. We may have sustained 20% deduction keeping in view the smallness of the plots which were sold vide sale deeds dated 4-9-1990 and 8-2-1991, but, in the peculiar facts of the case, we think that it will be wholly unjust to allow such deduction. Majority of the appellants have been deprived of their entire landholding and they have waited for 14 to 20 years for getting the compensation. It appears that in compliance with the interim orders passed by the

Court, some of the appellants did get 25% and one of them got 35% of the compensation, but majority of them have not received a single penny towards compensation and at this distant point of time, it will be wholly unjust to deprive them of their legitimate right by approving the 20% deduction made by the High Court. In such matters, the Court cannot be oblivious of the fact that the landowners have been deprived of the only source of livelihood, the cost of living has gone up manifold and the purchasing power of rupee has substantially declined.

25. We may have sustained 20% deduction keeping in view the smallness of the plots which were sold vide sale deeds dated 4-9-1990 and 8-2-1991, but, in the peculiar facts of the case, we think that it will be wholly unjust to allow such deduction. Majority of the appellants have been deprived of their entire landholding and they have waited for 14 to 20 years for getting the compensation. It appears that in compliance with the interim orders passed by the Court, some of the appellants did get 25% and one of them got 35% of the compensation, but majority of them have not received a single penny towards compensation and at this distant point of time, it will be wholly unjust to deprive them of their legitimate right by approving the 20% deduction made by the High Court. In such matters, the Court cannot be oblivious of the fact that the landowners have been deprived of the only source of livelihood, the cost of living has gone up manifold and the purchasing power of rupee has substantially declined.

26. In the result, the appeals are allowed and market value of the acquired land is fixed as under:

(i) For the acquisition made vide Notification dated 9-10-1990, the base document will be sale deed dated 4-9-1990 vide which land was sold at the rate of Rs 20 per square foot. One-third of Rs 20 comes to Rs 6.6 per square foot. After deducting Rs 6.6 from Rs 20, market value of the acquired land will be Rs 13.4 per square foot which is rounded off to Rs 14 per square foot.

(ii) For the acquisitions made by the Notifications issued on 15-4-1991, 16-4-1991 and 27-5-1991, the base document will be sale deed dated 8-2-1991 vide which land was sold at the rate of Rs 30 per square foot. One-third of Rs 30 is equal to Rs 10 per square foot.

After deducting Rs 10 from Rs 30, market value will be Rs 20 per square foot.

(iii) For the acquisition made vide Notification dated 8-4-1992, the base document will be sale deed dated 8-2-1991 vide which land was sold at the rate of Rs 30 per square foot. By adding 10% per annum in lieu of escalation in the land prices and deducting 1/3rd towards development cost, market value of the acquired land will be Rs 29.2 per square foot which is rounded off to Rs 30 per square foot.

(iv) For the acquisition made vide Notification dated 15-3-1995, the base document will be sale deed dated 8-2-1991 vide which land was sold at the rate of Rs 30 per square foot. By adding 10% per annum in lieu of escalation in the land prices and deducting 1/3rd towards development cost, market value of the acquired land will be Rs 29.2 per square foot which is rounded off to Rs 30 per square foot.

(v) For the acquisitions made by the Notifications issued on 17-1-1997 and 19-3-1997, the base document will be sale deed dated 8-2-1991 vide which land was sold at the rate of Rs 30 per square foot. If 10% per annum is added in lieu of escalation in the land prices and 1/3rd is deducted towards development charges, market value of the acquired land will be Rs 35.3 per square foot which is rounded off to Rs 36 per square foot. The appellants shall get solatium, interest and other statutory benefits in accordance with the provisions of the Act.

27. With a view to ensure that the landowners are not fleeced by the middlemen, we deem it proper to issue the following further directions:

(i) Within one month from the date of receipt of copy of this judgment, the Land Acquisition Officer shall depute an officer subordinate to him not below the rank of Naib Tahsildar or an equivalent rank, who shall get in touch with the landowners and/or their legal representatives and inform them about their entitlement to receive enhanced compensation.

(ii) The officers concerned shall instruct the landowners and/or their legal representatives to open savings bank account in a nationalised or scheduled bank, in case they already do not have such account.

(iii) The account numbers of the landowners and/or their legal representatives should be furnished by the officer concerned to the Land Acquisition Officer within a period of two months.

(iv) Within next one month, the Land Acquisition Officer shall deposit the amount of compensation along with other statutory benefits in the bank accounts of the landowners and/or their legal representatives by way of cheques.

5. It is also seen from records that another batch of appeals also came to be filed in Samiyathal and others in Civil Appeal Nos. 5335 - 5336 of 2013. In these appeals, the land owners, who approached the Hon'ble Supreme Court were covered under the 4(1) Notification dated 22.05.1991. The Hon'ble Supreme Court passed an order by sustaining the compensation fixed by the Reference Court. The relevant portions in the order are extracted hereunder:-

7. Although, no one has appeared on behalf of the appellants, we do not consider it just and proper to non-suit them by dismissing the appeals because that would amount to rubbing salt in the wounds inflicted upon the appellants who were deprived of their land for providing houses to others.

8. A careful scrutiny of the record shows that the Reference Court had determined market value of the acquired land by carefully scrutinising the entire evidence including various sale instances. The price for which some parcels of land were sold was Rs. 35/- per square feet and the Reference Court would have been fully justified in treating the market value of the acquired land at Rs. 35/- per square feet. However, it decided to rely upon other sale transactions, applied the rule of rd deduction and concluded that the landowners are entitled to compensation of Rs. 20/- per square feet.

9. In our considered view, the determination made by the Reference Court was based on proper analysis and evaluation of the pleadings and evidence of the parties and the High Court was not, at all, justified in drastically reducing the amount of compensation.

10. In the result, the appeals are allowed, the impugned judgment is set aside and the one passed by the Reference Court is restored. The respondents are directed to pay the amount of compensation to the appellants after deducting the amount already paid within a period of three months. The compensation would include all statutory benefits including interest.

11. With a view to ensure that the poor landowners are not fleeced by the middlemen, we issue the following directions :

(i) Within one month from today, the Special Land Acquisition Officer shall depute an officer subordinate to him not below the rank of Naib Tahsildar or an equivalent rank, to get in touch with the landowners and/or their legal representatives and inform them about their entitlement to receive the balance amount of compensation.

(ii) The concerned officer shall instruct the landowners and/or their legal representatives to open savings bank account in a nationalised or scheduled bank, in case they already do not have such account.

(iii) The account numbers of the landowners and/or their legal representatives should be furnished by the concerned officer to the Land Acquisition Officer within a period of one month.

(iv) Within next one month, the Special Land Acquisition Officer shall deposit the amount of compensation along with other statutory benefits in the bank accounts of the landowners and/or their legal representatives in the form of account payee cheques.

12. We further direct the respondents and the State of Tamil Nadu to pay the same amount of compensation to other landowners whose land was acquired by notification dated 22.05.1991, but who may have on account of ignorance, poverty and other similar handicaps, not been able to approach the Reference Court or may not have been able to contest the matter before the High Court and this Court. The needful be done in respect of other landowners within a period of six months. This direction has been given in exercise of the power vested in this Court under Article 142 of the Constitution.

6. It is also seen from records that there is yet another order passed by the Hon'ble Supreme Court in Elaiya Gounder case, dated 02.03.2009, wherein, the Hon'ble Supreme Court took into consideration the earlier orders passed in Valliammal case and Samiyathal case and the Hon'ble Supreme Court directed the concerned land owners to file an appropriate application before the concerned authority, for getting the benefit of the earlier orders passed by the Hon'ble Supreme Court sustaining the compensation fixed by the Reference Court. The relevant portions in the order are extracted hereunder:

While disposing of the second batch of appeals, this Court had, keeping in view the fact that large number of similarly situated persons may not have been able to seek intervention of this Court due to poverty and ignorance issued the following directions :-

"We further direct the respondents and the State of Tamil nadu to pay the same amount of compensation of other landowners whose land was acquired by notification dated 22.05.1991, but who may have on account of ignorance, poverty and other similar handicaps, not been able to approach the Reference Court or may not have been able to contest the matter before the High Court and this Court. The needful be done in respect of other landowners within a period of six months. This direction has been given in exercise of the power vested in this Court under Article 142 of the Constitution."

Notwithstanding the above reproduced directions, the petitioners have chosen to file this petition and also prayed for condonation of 1591 days' delay.

On being pointed out by the Court that the petitioners could have made a representation for grant of benefit in terms of judgement dated 05.07.2012 in Samiyathal's case, learned counsel for the petitioners made a request that his clients may be permitted to withdraw the Special leave petition with liberty to file appropriate application before the concerned authority for grant of benefit in terms of judgement dated 05.07.2013.

The request of the learned counsel is accepted and the Special leave petition is dismissed as withdrawn with liberty in terms of the prayer made.

7. In the light of above order passed by the Hon'ble Supreme Court, all the petitioners made a representation to the respondents, seeking for compensation on the basis of the earlier orders passed by the Hon'ble Supreme Court in Samiathal case. The said request made by the petitioners was rejected by the Revenue Divisional Officer (RDO), Erode, insofar as the petitioners in WP No. 6000 of 2020 by impugned order dated 28.02.2014 and by the Executive Engineer of the Tamil Nadu Housing Board, insofar as the other Writ petitions are concerned, by letter dated 21.02.2020.

8. The main ground on which the request made by the petitioners was rejected was that the order passed in Samiyathal case pertained to only one notification dated. 22.05.1991 and it applies only to those persons falling under that notification and other land owners, whose lands were acquired by different notifications cannot take advantage of the orders passed by the Hon'ble Supreme Court in Samiyathal case.

9. The petitioners in WP No. 6000 of 2020 again went before the Hon'ble Supreme Court and filed applications in Civil Appeal Nos. 5335-5336 of 2013 and sought for impleading themselves in the appeal, to enable them to get the same compensation as was fixed in Samiyathal case. The Hon'ble Supreme Court disposed of all the applications by passing the following order on 24.01.2020:

"We find no reason to entertain the miscellaneous Application. Accordingly, the M.A.No.1777-1778/2018 is dismissed reserving liberty to the petitioners / applicants to avail other remedies available to them in accordance with law including challenging orders that have been passed by the authorities against them before the High Court. Pending application(s), if any, shall stand disposed of."

10. Left with no other option, the petitioners have approached this Court challenging the rejection order passed by the respondents and for a consequential direction to redetermine the compensation in line with the earlier orders passed by the Hon'ble Supreme Court in Valliammal and Samiyathal case.

11. The 3rd respondent in WP No. 6000 of 2020 has filed a counter and the relevant portions in the counter are extracted hereunder:

The Petitioners lands were covered under the 4(1) notification issued on 27.05.1991, 08.04.1992, 15.03.1995 and 17.01.1997. After completion of due

process of law the awards were proclaimed from 1994 onwards. The petitioners lands were covered in 4(1) notifications dated 27.05.1991, 08.04.1992, 15.03.1995 and 17.01.1997. The other land owners demanded enhanced compensation under section 18 of the Act in LAOP cases in erode, sub court fixed enhanced compensation as follows:

Notification Date	Amount fixed by the LAO	Amount fixed by the Reference Court	Amount Fixed by the Hon'ble High court	Amount Fixed by the Hon'ble Supreme court.
27.05.1991	Rs. 37,500/- Acre	Rs. 17/- Per Sq.Ft	Rs. 8/- Per Sq.Ft	Rs. 20/- Per Sq.Ft
08.04.1992	Rs. 37,500/- Acre	Rs. 20/- Per Sq.Ft	Rs. 8/- Per Sq.Ft	Rs. 30/- Per Sq.Ft
15.03.1995	Rs. 50,000/- Acre	Rs. 22/- Per Sq.Ft	Rs. 8/- Per Sq.Ft	Rs. 30/- Per Sq.Ft
17.01.1997	Rs. 50,000/- Acre	Rs. 30/- Per Sq.Ft	Rs. 12/- Per Sq.Ft	Rs. 36/- Per Sq.Ft

subsequent appeals to High Court madras and supreme court has fixed compensation as above in C.A 6127-6128/2011 Vailliyammal and another etc., dated 0:t.08.2011. Hon'ble supreme court in 2011 (8) scc-91.

Another one samiyathal and others Vs the Special Tahsildar and others was decided on 05.07.2013 in SLP 867- 868/ 2012 for the notification dated 22.05.1991. in CA 5335-5336/2013 But the petitioners notifications were differently dated 27.05.1991, 08.04.1992, 15.03.1995 and 17.01.1997.

The petitioners Mr.Elachiana gounder, Ramasamy, samiyathal and Duraisamy gave petition under sction 28 A on 19.10.2011. based on the judgment dated 01.08.11 in valliammal and another Vs The Special Tahsidar in CA 6127-6128/2011. But the 4(1) notification in the valliammal case was 19.03.1997. But the petitioners notifications were 27.05.1991, 08.04.1992, 15.03.1995 and 17.01.1997 and in different award. The petitioner had not applied for enhanced compensation of u/s 18 on any other reference u/s 28A also.

Now the petitioners have filed this petition to extent the benefits given to the land owners covered under samiyathal case in SLP 867- 868/2012 judgment dated 05.07.2013 and notification dated 22.05.1991 in CA 5335-5336/2013. But the petitioners 4(1) notifications are different. Hence the petitioners are not eligible for enhanced compensation.

12. The Executive Engineer of the Tamil Nadu Housing Board has also filed individual counter affidavit in the other Writ Petitions and a very similar plea has been taken in the counter affidavits filed in those writ petitions.

13. Heard Mr. N. Manoharan and C. Prakasam, appearing on behalf of petitioners and Mr. S.R Rajagopal, learned Additional Advocate General, appearing for respondents in WP No.6000 of 2020 and Mr.E.Zhumalai, learned Government Advocate for respondents 1 and 2 in all the other writ petitions and also, Mr.S.R.Rajagopal, learned Additional Advocate General Assisted by Mr. I. Satish, learned Standing Counsel for Tamil Nadu Housing Board in WP No.11977, 11979, 11981 and 11982 of 2020

14. The petitioners in WP No. 6000 of 2020 had actually attempted to file applications before the Hon'ble Supreme Court in Civil appeal Nos. 5335-5336 of 2013 in order to implead themselves in Samiyathal case and get the same benefit, that was given by the Hon'ble Supreme Court in that case. However, the Hon'ble Supreme Court directed these petitioners to avail their remedies before this Court. Insofar as these petitioners are concerned, they were not parties before the Reference Court and they did not give their objections under section 18 of the Act. However, these petitioners have sought for re-determination of the compensation amount under Section 28(A) of the Act in line with the compensation fixed by the Reference Court. That apart, these petitioners also filed a petition before the Hon'ble Supreme Court and the Hon'ble Supreme Court passed an order on 29.11.2013, which has been extracted supra, wherein the respondents and the State of Tamil Nadu were directed to pay the same amount of compensation to other land owners, whose lands were acquired. This direction was specifically given by the Hon'ble Supreme Court in exercise of its powers vested under Article 142 of the Constitution of India.

15. Insofar as the petitioners in WP Nos.11977, 11979, 11981 and 11982 of 2020 are concerned, they have neither sought for a reference under Section 18(1) of the Act nor for redetermination of compensation under Section 28(A) of the Act and they directly approached the Housing Board, seeking for the same compensation that was fixed in Valliammal case and Samiathal case and the same was rejected. Yet another plea that has been taken by the petitioners is that they have not even been paid the original compensation that was fixed.

16. The petitioners before this Court were the owners of small extent of lands that was acquired by the Government under Section 4(1) of the Act through notifications dated 27.05.1991, 08.04.1992, 15.03.1995 and 17.01.1997. The main ground on which the petitioners were denied the enhanced compensation was that the order passed by the Hon'ble Supreme Court in Samiathal case pertains to only notification dated 22.05.1991 and it does not cover the other notifications and therefore, the petitioners cannot be extended the benefits given by the Supreme Court in Samiathal case. The additional ground that has been raised in the other writ petitions in WP No.11977, 11979, 11981 and 11982 of 2020 is that these petitioners neither sought for a reference under Section 18(1) of the Act nor for redetermination of compensation under Section 28(A) of the Act and therefore, they are not entitled for any enhancement of compensation.

17. The short issue that arises for consideration in these Writ petitions is as to whether the petitioners are entitled for the compensation that was fixed by the Hon'ble Supreme Court for the other land owners.

18. A careful reading of the orders passed by the Hon'ble Supreme Court in Valliammal case reveals the fact that the Hon'ble Supreme Court was considering the compensation fixed under all the notifications. The same is clear from paragraph No. 8 of the order, which has been extracted supra.

19. As per the orders passed in the Valliammal case, the compensation that was fixed by the Hon'ble Supreme Court under the above said four notifications is extracted by way of a tabular column hereunder:

Notification Date	Amount fixed by the LAO	Amount fixed by the Reference Court	Amount fixed by this Court	Amount fixed by the Hon'ble Supreme Court
27.05.1991	Rs.37,500/- Acre	Rs.17/- per sq.ft	Rs.8/- Per Sq.ft	Rs.20 Sq.Ft
08.04.1992	Rs.37,500/- Acre	Rs.20/- Per Sq.ft	Rs.8/- Per Sq.ft	Rs.30/- Sq.ft
15.03.1995	Rs.50,000/- Acre	Rs.22/- Per Sq.ft.	Rs.8/- Per Sq.ft	Rs.30/- Sq.ft.
17.01.1997	Rs.50,000/- Acre	Rs.30/- Per sq.ft.	Rs.12/- Per Sq.ft	Rs.30/- Sq.ft.

20. It is true that while the Hon'ble Supreme Court passed the order in Samiathal case, the notification dated 22.05.1991 was the only notification that was referred in that order. This is due to the fact that the lands belonging to the concerned petitioners fell under the notification dated 22.05.1991. While passing this order, the Supreme Court in fact took note of the fact that there was no representation for the appellants and in spite of the same, the Hon'ble Supreme Court took great care in safeguarding the interest of the land owners and directed for the payment of the compensation at the rate of Rs. 20 per sq. ft.

21. It is very important to take note of the last paragraph in the order passed in Samiyathal case, wherein the Hon'ble Supreme Court directed the respondent and the State of Tamil Nadu to pay the same amount of compensation to the other land owners also, who could not come to the Court on account of ignorance, poverty and other similar handicaps. This direction was issued in exercise of powers vested under Article 142 of Constitution of India. The Hon'ble Supreme Court mentioned Notification dated 22.05.1991 alone in the order since the petitioners in that case came under that notification. That does not mean that those directions will not cover the poor land owners who fall under the other notifications, which also formed part of the same scheme.

22. The above finding of this Court is fortified by the next order passed by the Hon'ble Supreme Court in Elaiya Gounder case, dated 29.11.2013. In this order, the Hon'ble Supreme Court took into consideration the order passed in both Valliammal case as well as in Samiathal case. After taking note of these two

orders, the Hon'ble Supreme Court granted liberty to the concerned land owners to file an appropriate application before the concerned authority for grant of benefit in terms of the judgement dated 05.07.2013. While passing this order, the Hon'ble Supreme Court was completely aware of the fact that the petitioners therein came under different notifications and inspite of the same, the Hon'ble Supreme Court took note of the general directions issued in Samiathal Case in exercise of powers under Article 142 of Constitution of India and granted liberty to the petitioners to approach the concerned authorities. This liberty granted by the Hon'ble Supreme Court will apply to all the other poor land owners, whose lands were acquired and who due to various reasons were not able to prosecute the case before the Court and seek enhancement of compensation.

23. This is one of those rare cases, where the Hon'ble Supreme Court had taken note of the fact that the land owners were all agriculturists, who have lost their livelihood on account of the lands being taken away from them and who did not prosecute the case for enhancement of compensation on account of ignorance, poverty etc. In view of the same, the Hon'ble Supreme Court exercised its powers under Article 142 of the Constitution of India and directed the same benefit to be extended to all the other land owners, who did not approach the Court. While the language used by the Hon'ble Supreme Court was wide enough to cover all the land owners, unfortunately, the respondents caught hold of the notification dated 22.05.1991 and construed the order as if it applies to only those land owners, who fall under that particular notification and not for the others, whose lands fall under four other notifications in the same scheme. This is rather a pedantic manner in which the order passed by the Hon'ble Supreme Court has been understood by the respondents.

24. The Hon'ble Supreme Court while dealing with the Right to Property under Article 300A of the Constitution of India has construed this Constitutional right to include not only the physical property but also the payment of reasonable compensation. The relevant portions of the judgement of the Hon'ble Supreme Court in [Hari Krishna Mandir Trust Vs. State of Maharashtra and others] in 2020 9 SCC 356 are extracted hereunder:-

96. The right to property may not be a fundamental right any longer, but it is still a constitutional right under Article 300A and a human right as observed by this Court in Vimlaben Ajitbhai Patel v. Vatslaben Ashokbhai Patel and Others³. In view of the mandate of Article 300A of the Constitution of India, no

person is to be deprived of his property save by the authority of law. The appellant trust cannot be deprived of its property save in accordance with law.

97. Article 300A of the Constitution of India embodies the doctrine of eminent domain which comprises two parts, (i) possession of property in the public interest; and (ii) payment of reasonable compensation. As held by this Court in a plethora of decisions, including *State of Bihar and Others v. Project Uchcha Vidya, Sikshak Sangh and Others*⁴; *Jelubhai Nanbhai Khachar and Others v. State of Gujarat and Anr.*⁵; *Bishambhar Dayal Chandra Mohan and Ors. v. State of Uttar Pradesh and Others*⁶, the State possesses the power to take or control the property of the owner for the benefit of public. When, however, a State so acts it is obliged to compensate the injury by making just compensation as held by this Court in *Girnar Traders v. State of Maharashtra and Others*⁷.

98. It has been established beyond any iota of doubt that the private road admeasuring 414 sq. meter area had never been acquired by the Pune Municipal Corporation. The right to property includes any proprietary interest hereditary interest in the right of management of a religion endowment, as well as anything acquired by inheritance. However, laudable be the purpose, the Executive cannot deprive a person of his property without specific legal authority, which can be established in a court of law.

99. In case of dispossession except under the authority of law, the owner might obtain restoration of possession by a proceeding for Mandamus against the Government as held by this Court in *Wazir Chand v. State of Himachal Pradesh*⁸. Admittedly, no compensation has been offered or paid to the appellant Trust. As observed by this Court in *K.T. Plantation Private Limited and Anr. v. State of Karnataka*⁹, even though the right to claim compensation or the obligation of the State to pay compensation to a person who is deprived of his property is not expressly provided in Article 300A of the Constitution, it is inbuilt in the Article. The State seeking to acquire private property for public purpose cannot say that no compensation shall be paid. The Regional and Town Planning Act also does not contemplate deprivation of a land holder of his land, without compensation. Statutory authorities are bound to pay adequate compensation.

100. The High Courts exercising their jurisdiction under Article 226 of the Constitution of India, not only have the power to issue a Writ of Mandamus or in the nature of Mandamus, but are duty bound to exercise such power, where the Government or a public authority has failed to exercise or has wrongly exercised discretion conferred upon it by a Statute, or a rule, or a policy decision of the Government or has exercised such discretion malafide, or on irrelevant consideration.

101. In all such cases, the High Court must issue a Writ of Mandamus and give directions to compel performance in an appropriate and lawful manner of the discretion conferred upon the Government or a public authority.

102. In appropriate cases, in order to prevent injustice to the parties, the Court may itself pass an order or give directions which the government or the public authorities should have passed, had it properly and lawfully exercised its discretion. In *Directors of Settlements, Andhra Pradesh and Others v. M.R. Apparao and Anr.* observed:

"One of the conditions for exercising power under Article 226 for issuance of a mandamus is that the court must come to the conclusion that the aggrieved person has a legal right, which entitles him to any of the rights and that such right has been infringed. In other words, existence of a legal right of a citizen and performance of any corresponding legal duty by the State or any public authority, could be enforced by issuance of a writ of mandamus, "Mandamus" means a command. It differs from the writs of prohibition or certiorari in its demand for some activity on the part of the body or person to whom it is addressed. Mandamus is a command issued to direct any person, corporation, inferior courts or government, requiring him or them to do some particular thing therein specified which appertains to his or their office and is in the nature of a public duty. A mandamus is available against any public authority including administrative and local bodies, and it would lie to any person who is under a duty imposed by a statute or by the common law to do a particular act. In order to obtain a writ or order in the nature of mandamus, the applicant has to satisfy that he has a legal right to the performance of a legal duty by the party against whom the mandamus is sought and such right must be subsisting on the date of the petition. The duty that may be enjoined by

mandamus may be one imposed by the Constitution, a statute, common law or by rules or orders having the force of law."

25. It will also be relevant to take note of the judgement of the Hon'ble Supreme Court in [Bondu Ramaswamy and others Vs. Bangalore Development Authority and others] in 2010 7 SCC 129. This was the judgment that paved way for the new Land Acquisition Act, 2013. It will be very relevant to take note of portions of the judgment extracted hereunder:-

148. It is necessary to refer to another aspect of land acquisition for urban development. "Public purposes" may be of different degrees of importance/priority/urgency. An acquisition for laying a road or a water supply canal may be of higher priority category when compared to acquisitions for formation of an urban residential layout. Planned urban development by forming residential layouts, is carried out not only by statutory Development Authorities, but also by private developers/colonisers. The reason why the legislature has created Development Authorities for executing development schemes, is because they can undertake large-scale developments providing better quality facilities with no profit motives. But in trying to achieve planned development and thereby benefit the urban middle class or urban poor by providing them housing plots, the interests of agriculturists/landowners who lose their livelihood on account of such acquisition, should not be ignored. Though the legislature intended that the landloser should get reasonable compensation at the time of dispossession or immediately thereafter, it seldom happens in practice.

149. This court had occasion to refer to the travails of land-losers in getting the compensation in Special Land Acquisition Officer v. Mahaboob [2009 (3) SCALE 263] thus:

"The Collector (LAO) is supposed to offer fair compensation by taking all relevant circumstances relating to market value into account. To safeguard the interests of the land-loser, the Act requires the collector to make the award before the land owner is dispossessed. The intention is that the land-loser will immediately be able to draw compensation and purchase some other suitable land or make appropriate arrangements for his livelihood. But in practice the Collectors (LAOs) seldom make reasonable offers. They

tend to err on the 'safer' side and invariably assess very low compensation. Such meagre awards force the land-loser to seek reference to civil court for increase in compensation in regard to almost every award made by the LAO. In fact, many a time, even the reference courts are conservative in estimating the market value and it requires further appeals by the land-loser to the High Court and Supreme Court to get just compensation for the land. We can take judicial notice of the fact that in several States the awards of the reference court or the judgments of the High Court and this court increasing the compensation, are not complied with and the land-losers are again driven to courts to initiate time consuming execution process (which also involves considerable expense by way of lawyers fee) to recover what is justly due. Resultantly the land-losers seldom get a substantial portion of proper compensation for their land in one lump sum immediately after the acquisition. The effect may be highlighted by the following illustration: "A farmer owns 3 acres of land in a village, which is his sole means of livelihood. The land is acquired for some project in the year 1990. The true market value of the land was around Rs.1,50,000/- per acre in 1990. If he got the said price, that is, Rs. 4,50,000/- with solatium, additional amount and interest in the year 1991, he has a reasonable opportunity of purchasing some alternative land, so that he can eke out his livelihood and continue to live with dignity. But this rarely happens in practice. The final notification is made in 1992 and the LAO makes an award in the year 1993 offering Rs.50,000/- per acre. So the land-loser is constrained to seek a reference to the court. The reference court takes three to four years to decide the reference and increases the compensation to Rs. one lakh per acre in the year 1996. The increased amount is deposited in 1997-1998. The land-loser is constrained to file a further appeal to the High Court and the High Court takes another three to four years and increases the compensation to Rs.1.5 lakh per acre in the year 2000 and such increase is deposited in the year 2001-02. That is, the loser is forced to fight at least in two courts to get the compensation commensurate with the market value of Rs.1.5 lakhs per acre. To add to his woes, when the reference court or the High Court increases the compensation, the Government does not pay the increased amount immediately and drives him to execution proceedings also. This means that the land owner gets compensation piecemeal, that is, Rs. 50,000/- per acre in 1993,

another Rs. 50,000/- per acre in 1997-98, and another Rs.50,000/- per acre in 2001-02. At every stage he has to incur expenses for litigation. As he does not get the full compensation in one lump sum, he is not in a position to purchase an alternative land. When the land is acquired, he loses his means of livelihood, as he knows no other type of work. The result is, he is forced to spend the compensation received in piecemeal, on sustenance of his family when he fights the legal battles for increasing the compensation and for recovering the increases granted, by levying execution. The result is that whatever compensation is received piecemeal, gets spent for the sustenance of the family, and litigation cost during the course of prolonged litigation. At the end of the legal battle, he is hardly left with any money to purchase alternative land and by then the prices of land would have also increased manifold, making it impossible to purchase even a fraction of the land which he originally possessed. Illiteracy, ignorance, and lack of counselling add to his woes and the piecemeal compensation is dissipated leaving him with neither land, nor money to buy alternative land, nor any means of livelihood. In short, he is stripped of his land and livelihood."

151. There are several avenues for providing rehabilitation and economic security to landlosers. They can be by way of offering employment, allotment of alternative lands, providing housing or house plots, providing safe investment opportunities for the compensation amount to generate a stable income, or providing a permanent regular income by way of annuities. The nature of benefits to the landlosers can vary depending upon the nature of the acquisition. For this limited purpose, the acquisitions can be conveniently divided into three broad categories:

(i) Acquisitions for the benefit of the general public or in national interest. This will include acquisitions for roads, bridges, water supply projects, power projects, defence establishments, residential colonies for rehabilitation of victims of natural calamities.

(ii) Acquisitions for economic development and industrial growth. This will include acquisitions for Industrial Layouts/Zones, corporations owned or controlled by the State, expansion of existing industries, and setting up Special Economic Zones.

(iii) Acquisitions for planned development of urban areas. This will include acquisitions for formation of residential layouts and construction of apartment Blocks, for allotment to urban middle class and urban poor, rural poor etc.

152. In acquisitions falling under the first category, the general public are the direct beneficiaries. In the second category, the beneficiaries are industrial or business houses, though ultimately, there will be indirect benefit to the public by way of generation of employment and overall economic development. In the third category, the beneficiaries are individual members of public who, on account of allotment of plots/flats, will be able to lead a better quality of life by having a shelter with comforts, apart from the fact that the planned development of cities and towns is itself in public interest. At present, irrespective of the purpose, in all cases of acquisition, the landloser gets only monetary compensation. Acquisitions of the first kind, does not normally create any resistance or hostility. But in acquisitions of the second kind, where the beneficiaries of acquisition are industries, business houses or private sector companies and in acquisitions of the third kind where the beneficiaries are private individuals, there is a general feeling among the landlosers that their lands are taken away, to benefit other classes of people; that these amount to robbing Peter to pay Paul; that their lands are given to others for exploitation or enjoyment, while they are denied their land and their source of livelihood. When this grievance and resentment remains unaddressed, it leads to unrest and agitations.

153. The solution is to make the landlosers also the beneficiaries of acquisition so that the landlosers do not feel alienated but welcome the acquisition. It is necessary to evolve tailor-made schemes to suit particular acquisitions, so that they will be smooth, speedy, litigation-free and beneficial to all concerned. Proper planning, adequate counselling, and timely mediation with different groups of landlosers, should be resorted to. Let us consider the different types of benefits that will make acquisitions landloser-friendly.

153.1 In acquisitions of the first kind (for benefit of general public or in national interest) the question of providing any benefit other than what is

presently provided in the Land Acquisition Act, 1894 may not be feasible. The State should however ensure that the landloser gets reasonable compensation promptly at the time of dispossession, so that he can make alternative arrangements for his rehabilitation and survival.

153.2 Where the acquisition is for industrial or business houses (for setting up industries or special economic zones, etc.), the Government should play not only the role of a land acquirer but also the role of the protector of the landlosers. As most of the agriculturists/small holders who lose their land, do not have the expertise or the capacity for a negotiated settlement, the State should act as a benevolent trustee and safeguard their interests. The Land Acquisition Collectors should also become Grievance Settlement Authorities. The various alternatives including providing employment, providing equity participation, providing annuity benefits ensuring a regular income for life, providing rehabilitation in the form of housing or new businesses, should be considered and whichever is found feasible or suitable, should be made an integral process of the scheme of such acquisitions. If the Government or Development Authorities act merely as facilitators for industrial or business houses, mining companies and developers or colonisers, to acquire large extents of land ignoring the legitimate rights of the landowners, it leads to resistance, resentment and hostility towards the acquisition process.

153.3 Where the acquisition is of the third kind, that is, for urban development (either by formation of housing colonies by Development Authorities or by making bulk allotment to colonisers, developers or housing societies), there is no scope for providing benefits like employment or a share in the equity. But the landlosers can be given a share in the development itself, by making available a reasonable portion of the developed land to the landloser so that he can either use it personally or dispose of a part and retain a part or put it to other beneficial use. We may give by way of an illustration a model scheme for large-scale acquisitions for planned urban development by forming residential layouts:

Out of the total acquired area, 30% of the land area can be earmarked for roads and footpaths; and 15% to 10% for parks, open spaces and civic amenities. Out of the remaining 55% to 60% area available for forming plots, the Development Authority can auction 10% area

as plots, allot 15% area as plots to urban middle class and allot 15% area as plots to economically weaker sections (at cost or subsidised cost), and release the remaining 15% to 20% area in the form of plots to the landlosers whose lands have been acquired, in lieu of compensation. (The percentages mentioned above are merely illustrative and can vary from scheme to scheme depending upon the local conditions, relevant bye-laws/Rules, value of the acquired land, the estimated cost of development, etc.) Such a model makes the landloser a stakeholder and direct beneficiary of the acquisition leading to cooperation for the urban development scheme.

154. In the preceding para, we have touched upon matters that may be considered to be in the realm of government policy. We have referred to them as acquisition of lands affect the vital rights of farmers and give rise to considerable litigations and agitations. Our suggestions and observations are intended to draw attention of the government and development Authorities to some probable solutions to the vexed problems associated with land acquisition, existence of which can neither be denied nor disputed, and to alleviate the hardships of the land owners. It may be possible for the government and development authorities to come up with better solutions. There is also a need for the Law Commission and the Parliament to revisit the Land Acquisition Act, 1894, which is more than a century old. There is also a need to remind Development Authorities that they exist to serve the people and not vice versa. We have come across Development Authorities which resort to 'developmental activities' by acquiring lands and forming layouts, not with the goal of achieving planned development or provide plots at reasonable costs in well formed layouts, but to provide work to their employees and generate funds for payment of salaries. Any development scheme should be to benefit the society and improve the city, and not to benefit the development authority. Be that as it may.

157. Inclusion of the land of a person in an acquisition notification, is a traumatic experience for the landowner, particularly if he was eking out his livelihood from that land. If large areas are notified and then large extents are to be deleted, it breeds corruption and nepotism among officials. It also creates hostility, mutual distrust and disharmony

among the villagers, dividing them on the lines of 'those who can influence and get their lands deleted' and 'those who cannot'. Touts and middlemen flaunting political connections flourish, extracting money for getting lands deleted. Why subject a large number to citizens to such traumatic experience? Why not plan properly before embarking upon acquisition process? In this case, out of the four villages included at the final stages of finalising the development scheme, irregularities have been found at least in regard to three villages, thereby emphasising the need for proper planning and survey before embarking upon acquisition.

158. Where arbitrary and unexplained deletions and exclusions from acquisition, of large extents of notified lands, render the acquisitions meaningless, or totally unworkable, the court will have no alternative but to quash the entire acquisition. But where many landlosers have accepted the acquisition and received the compensation, and where possession of considerable portions of acquired lands has already been taken, and development activities have been carried out by laying plots and even making provisional or actual allotments, those factors have to be taken note of, while granting relief. The Division Bench has made an effort to protect the interests of all parties, on the fact and circumstances, by issuing detailed directions. But implementation of these directions may lead to further litigations and complications.

26. In the above judgment, interestingly the Hon'ble Supreme Court uses the expression 'Land losers' for those whose lands are taken by the Government. This expression is used more to describe the travails of a farmer, who virtually loses his means of livelihood. The Hon'ble Supreme Court has therefore made it very clear in the above judgement that the State should ensure that the land loser gets a reasonable compensation promptly at the time of dispossession so that he can make alternative arrangement for his rehabilitation and survival.

27. In the present case, it is quite unfortunate that some of the petitioners are complaining that they have not even received the original compensation that was fixed. These agricultural lands have been taken away from the poor agriculturists almost 30 years ago and till now, they are

struggling for getting a reasonable compensation. This Court is not in agreement with the plea raised by the learned Additional Advocate General to the effect that the petitioners in WP Nos.11977, 11979, 11981, 11982 of 2020 will not be entitled for any enhancement of compensation, since they have neither sought for a reference under Section 18(1) of the Act nor for redetermination of compensation under Section 28(A) of the Act. This plea raised by the respondents will not apply to the facts of the present case, in view of the general directions issued by the Hon'ble Supreme Court in exercise of its powers under Article 142 of the Constitution of India, to extend the payment of enhanced compensation to all the other land owners also. This Court has already held that this general direction will apply to all the land owners falling under all the notifications.

28. In view of the above discussion, this Court has absolutely no hesitation to interfere with the impugned proceedings challenged in these Writ petitions and the same is hereby quashed. The RDO, Erode district, is directed to consider the claim made by the petitioners and redetermine the compensation amount, in line with the orders passed by the Hon'ble Supreme Court in Valliammal case and in Samiyathal case and the entire compensation amount shall be paid (after deducting the amounts already paid, if any) within a period of 8 weeks from the date of receipt of a copy of this Order. The petitioners are directed to make a fresh representation to the RDO, Erode district, along with all relevant documents proving their ownership over their property and also a copy of this order.

29. All the writ petitions are allowed with the above directions. No costs. Consequently, all the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

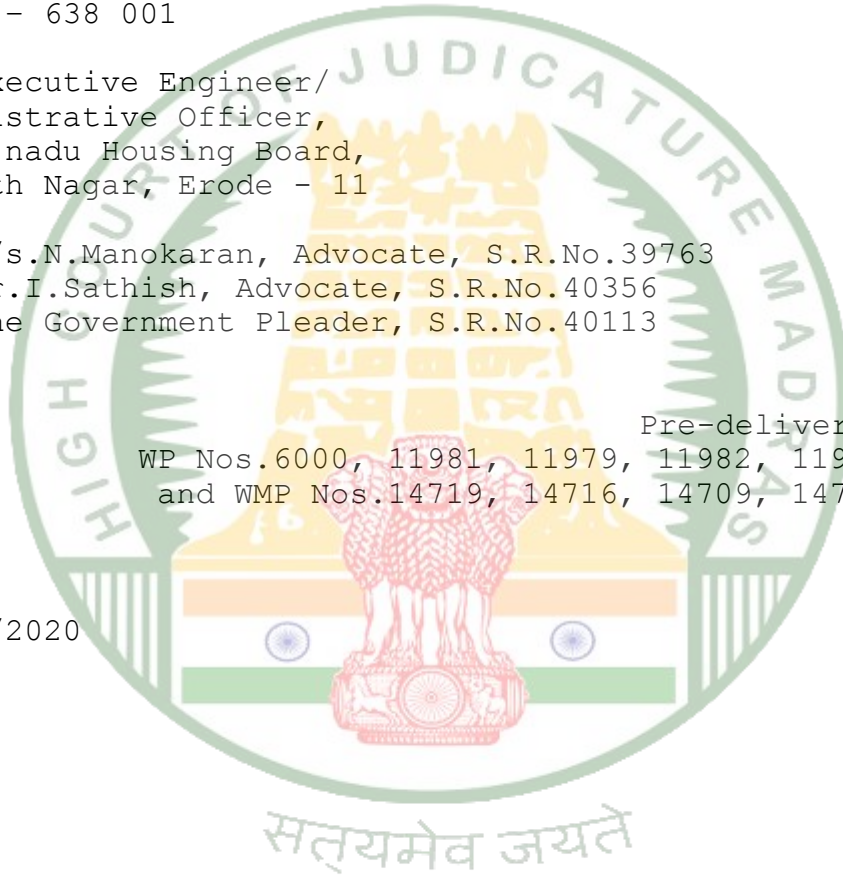
1. The Secretary to Government,
Department of Housing and Urban
Development, Secretariat, Chennai 600 009.

2. The District Collector,
Collectorate,
Erode - 638 011
Erode District.
3. The Revenue Divisional Officer,
Brough Road,
Erode - 638 001.
4. The Special Tahsildar,
Neighbourhood Scheme,
Brough road,
Erode - 638 001
5. The Executive Engineer/
Administrative Officer,
Tamil nadu Housing Board,
Sampath Nagar, Erode - 11

+1cc to M/s.N.Manokaran, Advocate, S.R.No.39763
+1cc to Mr.I.Sathish, Advocate, S.R.No.40356
+1cc to the Government Pleader, S.R.No.40113

Pre-delivery Order in
WP Nos.6000, 11981, 11979, 11982, 11977 of 2020
and WMP Nos.14719, 14716, 14709, 14712 of 2020

CP (CO)
KKV/15/12/2020



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