

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.26274 of 2019

Dharmaraj,
S/o.Natesa Gounder.

...Petitioner

.Vs.

1. The District Collector,
Tiruvannamalai District,
Tiruvannamalai.

2. The Revenue Divisional Officer,
Thiruvannamalai,
Thiruvannamalai District.

3. Lakshmi,
W/o.Natesa Gounder.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to dispose of the application dated 20.07.2016 in file No.32503 expeditiously within the time period which the Hon'ble Court may deem fit and decide and to re-determine the compensation for the acquisition of land admeasuring 0.19.0 hectares comprised Survey No.79/1, Vengikal, Thiruvannamalai on basis of the award No.27.04.2016 in L.A.O.P.No.77/2001 on the file of Principal Sub-Court, Thiruvannamalai, Thiruvannamalai District and pass orders.

For Petitioner : Mr.R.Rajarajan

For Respondents : Mr.Raja

Additional Government Pleader

for RR1 & 2

Mr.E.Manokaran for R3

O R D E R

This writ petition has been filed for the issue of Writ of Mandamus directing the first respondent to consider the application submitted by the petitioner on 20.07.2016 and re-determine the compensation with respect to the subject property, within the time frame fixed by this court.

2.The case of the petitioner is that the subject property was acquired by invoking an emergency provision under section 17 (1) of the Land Acquisition Act 1894 (hereinafter called as 'the Act') in the year 1998. An award also came to be passed by the second respondent in the year 2000. The further case of the petitioner is that he was not aware of the award passed by the second respondent and therefore he was not able to seek for reference under section 18(1) of the Act. The further case of the petitioner is that same of the owners, whose lands were also acquired in the very same acquisition proceedings, sought for a reference for enhancement of compensation and the same was decided in L.A.O.P.No.77 of 2001, by the Principal Subordinate Court, Tiruvannamalai. According to the petitioner, the Principal Subordinate Court enhanced the amount of compensation to Rs. 57/- per square feet from Rs. 277/- per cent.

3.The petitioner immediately after coming to know about the enhancement of compensation, made an application before the first respondent on 20.07.2016 under section 28-A of the Act for re-determination of the amount of compensation based on the order passed by the Civil Court. The grievance of the petitioner is that this application was not considered by the first respondent inspite of several representations and therefore, left with no other alternative, present writ petition has been filed before this court seeking for appropriate directions.

4.Heard Mr.R.Rajarajan, learned counsel appearing on behalf of the petitioner, Mr.Raja, learned Additional Government Pleader, appearing on behalf of respondents 1 and 2 and Mr. E. Manoharan, learned counsel appearing on behalf of 3rd respondent.

5.The specific case of the petitioner is that he did not seek for enhancement of compensation at the time when the other owners sought for a reference under section 18(1) of the Act. The competent Civil Court has passed an order in L.A.O.P.No. 77 of 2001 enhancing the compensation. The petitioner wants re-determination of compensation on the basis of the compensation enhanced by the Civil Court. Hence, an application was filed before the first respondent under section 28-A of the Act for re-determination of the amount. This is said to be pending without any adjudication till date.

6.It is clear from a catena of decisions that even where the claimant has not made reference under Section 18 of the Act, he will be entitled to claim compensation at par with others, where the compensation has been enhanced, by virtue of Section 28-A of the Act. The limitation that has been provided for filing an application under Section 28-A of the Act is three months from the date of the award of the Court. Useful reference can be made

to two judgements of the Hon'ble Supreme Court in the case of V.Ramakrishna Rao Vs. Singareni Collieries Company Ltd., and another reported in (2011) 1 MLJ 351 and in the case of Popat Bahiru Govardhane and others Vs. Special Land Acquisition Officer and another reported in (2013) 10 SCC 765.

7.The order was passed in L.A.O.P on 27.04.2016 and the petitioner has made the application under Section 28-A of the Act on 20.07.2016 and hence the petitioner claims to have filed the application for re-determination of the compensation within a period of three months. This application requires to be considered by the first respondent in accordance with law.

8.In view of the above, there shall be a direction to the first respondent to consider the application filed by the petitioner on 20.07.2016 seeking for re-determination of the amount of compensation under section 28-A of the Act, strictly in accordance with law, within a period of three months from the date of receipt of copy of this order. The petitioner is directed to make a fresh representation to the first respondent along with all the relevant documents and also a copy of this order.

9.This writ petition is disposed of with the above directions. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To:

1. The District Collector,
Tiruvannamalai District,
Tiruvannamalai.
2. The Revenue Divisional Officer,
Thiruvannamalai,
Thiruvannamalai District.

+1cc to Mr.R.Raja Rajan, Advocate, S.R.No.38098
+1cc to the Government Pleader, S.R.No.38242

W.P No.26274 of 2019

rr ii (20/01/2021)