



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2021

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

WP.No.2133 of 2013 and
MP.No.1 of 2013

S.R.Dominic(deceased)
2.Rita Jayaraj
3.S.Leo Raj
4.S.D.Poul Raj
5.Sister Thomas Mary
6.S.Jonah

(Petitioners 3,4 & 6 rep. .by power agent
Rita Jaya Raj, the first petitioner herein)
(P2 to P6 substituted as legal heirs in the place
of the deceased first petitioner as per order dated
05.08.2014 in MP.No.1 of 2014 in
WP.No.2133 of 2013)

.. Petitioners

Vs

1.The Principal Secretary to Government,
Industries (MIG.2) Department,
Secretariat, Chennai 600 009

2.The District Collector,
Kanchipuram,
Kanchipuram District

3.The Chairman & Managing Director,
SIPCOT,
19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai 600 008

.. Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the second respondent in RC.28631/2010F5 dated 24.05.2012 and quash the same and direct the second respondent and third respondent to pay the amount of compensation determined by the second respondent by his proceedings in RC.No.28631/2010-F5 dated 04.02.2011 including the applicable interest accrued subsequently till the date of payment by adjusting the amount already paid in respect of the petitioner's land in survey No.281/1 to an extent of 1.52.0 hectare in Mambakkam Village, Sriperumbudur Taluk, Kancheepuram District.



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For Petitioners : Mr.L.G.Sahadevan

For Respondents

For R1 & 2 : Mr.M.R.Gokul Krishnan,
Government Advocate

For R3 : Mr.Ramesh Venkatachalapathy

ORDER

This Writ Petition is filed to issue a writ of certiorarified mandamus calling for the records of the second respondent in RC.28631/2010F5 dated 24.05.2012 and quash the same and direct the second respondent and third respondent to pay the amount of compensation determined by the second respondent by his proceedings in RC.No.28631/2010-F5 dated 04.02.2011 including the applicable interest accrued subsequently till the date of payment by adjusting the amount already paid in respect of the petitioner's land in survey No.281/1 to an extent of 1.52.0 hectare in Mambakkam Village, Sriperumbudur Taluk, Kancheepuram District.

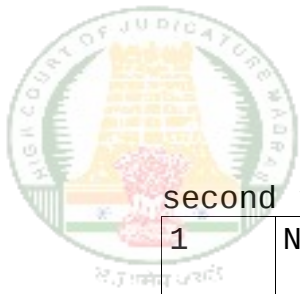
2. The petitioner owned land admeasuring 1.52.0 hectares comprised in survey no.281/1 in Block No.20 Mambakkam Village, Sriperumbudur Taluk, Kancheepuram District. The said land was acquired and award has been passed at Rs.2,33,121/-. Similarly placed persons raised objections and referred under Section 18 of the Land Acquisition Act for enhancement of compensation. Reference Court i.e. Sub Court, Kancheepuram by the judgment and decree dated 11.02.2009 in LAOP.No.494, 3, 4, 304, 459, 495, 548 and 864 of 2007 enhanced the award amount from Rs.400/- per cent to Rs.4,500/- with 30% solatium and also added additional market value at 12% per annum from the date of 4(1) notification and 9% interest from the first year from the date of taking possession and 15% for the subsequent years till the date of deposit. Based on the said enhanced award amount, the petitioner made request under Section 28-A of the Land Acquisition Act (hereinafter called as 'the Act') on 24.04.2009 before the second respondent to redetermine the compensation amount as awarded by the referral court. In fact, the third respondent also preferred appeal in AS.Nos.105 to 197 of 2007 in batch of appeal suits before this Court and partly allowed the appeals by the judgment and decree dated 02.12.2009 and fixed the compensation at Rs.2,800/- per cent with 30% solatium. The remaining part of the award was confirmed by this Court. Though the representation was still pending with the second respondent and as such the petitioner was constrained to file writ petition before this Court in WP.No.15715 of 2010 for redetermination of compensation amount as fixed by this Court in AS.Nos.105 to 197 of 2007 batch cases.



3. This Court by order dated 21.07.2010 directed the Collector to redetermine the compensation amount within a period of three months after giving opportunity of hearing. As directed by this Court, the second respondent by its proceedings dated 26.11.2010 had redetermined the compensation amount at Rs.2,800/- per cent. However, the third respondent sought for clarification in respect of other statutory benefits such as interest and solatium, etc. Again the second respondent by the proceedings dated 04.02.2011 along with the working sheet categorically expressed that the petitioner is entitled for enhanced market value of the land as well as other benefits such as interest and solatium as per the working sheet. The compensation amount has been fixed at Rs.35,07,587/-. The third respondent is being requisition body, had chosen to release only a sum of Rs.6,52,089/- to the second respondent. Therefore, again the petitioner made representation before the third respondent for releasing the balance amount as determined by the second respondent. However, again the second respondent by order impugned in this writ petition, informed the petitioner that the third respondent has sought for clarification whether the land acquisition benefits are eligible from the Government on the basis of the Collector's orders. The clarification sought for by the third respondent is yet to be received from the Government and whenever the clarification received from the Government, the remaining compensation will be settled soon.

4. The learned counsel for the petitioner would rely upon the judgment in the case of Union of India and another Vs. Pushpavathi and another reported in 2018 (3) SCC 28, wherein the Hon'ble Supreme Court of India held that Section 28-A provides for redetermination of the amount of compensation on the basis of the award of the court. It enables the land owners to approach the Collector to redetermine the amount of compensation payable to them on the basis of the award passed by the Court in the cases of other persons alike them whose lands were also acquired under the same notification of Section (4) and who approached the court for redetermination of the amount of compensation payable to them whereas other land owners did not approach the court along with them. Accordingly, the second respondent herein passed order and redetermined the compensation as per the judgment and decree passed by this Court in AS.Nos.105 to 197 of 2007 dated 21.07.2010 in the proceedings in RC.No.28631/2010-F5 and by order dated 04.02.2011 in RC.No.28631/2010-F5.

5. Heard, Mr.L.G.Sahadevan, the learned counsel for the petitioners, Mr.M.R.Gokul Krishnan, Government Advocate appearing for the respondents 1 & 2, and Mr.Ramesh Venkatachalapathy, the learned counsel for the petitioner.



6. On perusal of the working sheet submitted by the second respondent revealed as follows:

1	Name of the petitioner	S.R.Dominic, S/o.Royappa Naidu
2	Date of Judgment in Addl.Dist. Judge, FTC No.5, Thiruvallur	28.02.2006
3	AS.No.	105/2008 etc.
4	Date of judgment of High Court	02.12.2009
5(a)	Rate per cent / are fixed by the Lower Court	4500/11,115.00
5(b)	Rate per cent / are fixed by the High Court	2800/6916.00
6	Survey No.	281/1
7	Extent	1.52.0 hectares
8	Land Value	10,51,232.00
9	12% Addl. Market value from the date of 15.7.48 to 19.1.99 4(1) do the date of possession taken(189/365)	65,320.39
10	30% solatium	3,15,369, .60
11	Total	14,31,921.99
12	Less compensation 80% paid	1,84,149.00
13	Balance	12,47,772.99
14(a)	9% interest for one year from the date of 19.1.99 - 18.1.2000 possession taken 347/365, 18/366	1,06,761.51 5,522.93
14(b)	15% interest from the date of 19.1.2000 to 29.2.2000 to the date of award 42/366	21,478, .06
15	Total	13,81,535.49
16	Compensation 20% paid	51,972.00
17	Balance	13,29,563.49
18	15% interest from 1.3.2000 to 31.1.2011 date of deposit in the Lower Court 2951/365, 1038/366	16,12,414.46 5,65,609.39
19	Total	35,07,587.34
20	Total amount to be deposited	35,07,587.00

Accordingly, as per the redetermined value of the compensation, the petitioner is entitled to get compensation with solatium and interest.



7. In view of the above, the impugned order dated 24.05.2012 is set aside and the writ petition is allowed. The respondents 2 and 3 are directed to pay the compensation as determined by the second respondent with interest after adjusting the amount which was already paid in respect of the acquired land in survey No.281/1 to an extent of 1.52.0 hectare in Mambakkam Village, Sriperumbudur Taluk, Kancheepuram District within a period of six weeks from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed. No order as to costs.

Sd/-
Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar

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To

1.The Principal Secretary to Government,
Industries (MIG.2) Department,
Secretariat, Chennai 600 009

2.The District Collector,
Kanchipuram,
Kanchipuram District

3.The Chairman & Managing Director,
SIPCOT,
19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai 600 008

+3CCs to Mr.L.G.Sahadevan, Advocate, SR.No. 51691
+1CC to M/s.M.Sriram, Advocate, SR.No. 51865
+1CC to The Government Pleader, SR.No. 52005

WP.No.2133 of 2013

NR(CO)
B.VC (29/10/2021)