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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.10.2021

Coram:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.9488 of 2014

1. V.Samundeswari
- 2.V.Venrasi
3. V.Devarajan

...Petitioners

Vs.

1. The District Collector,
Kancheepuram District,
Kancheepuram.
2. The Special Tahsildar,
Maraimalai Nagar (Scheme)
Maraimalai Nagar,
Kattankulathur.
3. The Member Secretary,
CMDA,
Chennai - 600 008.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, calling for the records of the first respondent in Na.Ka.No.51241/2007/F2, dated 15.10.2013, quash the same and further direct the first respondent to pay the enhanced compensation of a sum of Rs.193.18 per cent as per the order in L.A.O.P.No.98 of 1994 dated 06.09.1996 to the petitioners.

For Petitioners : Mr.M.Rajasekhar

For Respondents : Mr.M.R.Gokul Krishnan
Government Advocate (for R-1 & R-2)

: Mrs.P.Veena Suresh
Standing Counsel for CMDA (for R-3)

O R D E R

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent in Na.Ka.No.51241/2007/F2, dated 15.10.2013, quash



the same and further direct the first respondent to pay the enhanced compensation of a sum of Rs.193.18 per cent, as per the order in L.A.O.P.No.98 of 1994 dated 06.09.1996 to the petitioners.

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2. The case of the petitioners is that, originally one Venkadasamy Naidu was the owner of the property to a larger extent of 10 acres and 73 cents situated at Keelkaranani Village, Chengalpattu Taluk. Thereafter, the said Venkadasamy Naidu died leaving behind three sons, viz., Munusamy Naidu, Narasapa Naidu and Rajappa Naidu. The first petitioner's husband viz., the said Venkadasami Naidu along with Gopal Naidu and Muthu Naidu, have purchased the property measuring an extent of 0.73 cents comprised in S.No.160/1 and of an extent of 4 acres and 66 cents comprised in S.No.163, in all, totalling an extent of 5 acres and 39 cents from the legal heirs of the said Munusamy Naidu, out of the large extent of 10 acres and 73 cents, situated at Keelkaranai Village, Chengalpattu Taluk. The said lands were acquired for developing Maraimalai Nagar New Satellite Town by the third respondent. The second respondent fixed a sum of Rs.30/- per cent as compensation to be paid to the land owners. Aggrieved by the same, some of the land owners objected and as such, the case was referred to the referral Court in L.A.O.P.No.98 of 1994 on the file of the Additional Sub Court, Chengalpattu and the compensation was enhanced from Rs.30/- per cent to Rs.193.18 per cent by the judgment and decree dated 06.09.1996 passed in the said LAOP. The land belonging to a person, who failed to raise objections to refer the case to referral Court in respect of his land comprised in S.Nos.155/3 and 156/2 situated at Kilkarnai Village, Chengalpattu Taluk, forms part and parcel of the very same Notification issued under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act' for short) dated 16.10.1974, in which the petitioners' properties were also notified. Therefore, the petitioners made representation before the third respondent on 10.10.1996 for re-determination of the amount of compensation on the basis of the award of the Additional Sub Court, Chengalpattu in L.A.O.P.No.98 of 1994 under Section 28-A of the Act, thereby requesting to determine valuation of the land at Rs.193.18 per cent as compensation. However, the petitioners did not make any application under Section 28-A of the Act to the first and second respondents herein. They have also sent representation wrongly to the third respondent who is the requisitioning body on the impression that the third respondent is an authority to enhance the compensation.

3. Thereafter, they did not pursue the said representation and subsequently on 29.03.1997, they made another representation to the first respondent claiming the compensation by re-



determining the same as contemplated under Section 28-A of the Act. It was received by the first respondent on 02.04.1997. However, the first respondent did not pass any orders. Thereafter, the petitioners submitted another representation and subsequently, they have also filed a Writ Petition before this Court in W.P.No.4777 of 2013 and this Court, by order dated 27.02.2013, directed the respondents therein to consider their request within a period of four weeks from the date of receipt of a copy of that order. However, the first respondent, by the order impugned in the present Writ Petition, dated 15.10.2013, rejected the claim of the petitioners for the reason that it was submitted beyond the period of 90 days and as such, their claim is barred by limitation.

4. The learned counsel for the petitioners relied upon an order passed by this Court in similarly placed matter in W.P.No.16577 of 2008 and this Court, by order dated 09.09.2008, held that the representation was made to the requisitioning authority, instead of the District Collector to re-determine the value of the property for compensation for whose benefit or the scheme formed by which the lands were acquired. It was made within a period of three months. Even if it is taken that the requisitioning body had received the said representation within a period of 90 days, the requisitioning body, after having received the same kept it for several months before referring the matter to the Tahsildar concerned, and thereafter, it was kept in the Office of the Tahsildar and referred before the Collector. Therefore, the petitioners seek to consider their request for re-determination of the value of the land and for payment of compensation under Section 28-A of the Act. Hence, the present Writ Petition has been filed.

5. The first respondent filed counter affidavit, from which, it reveals that during the enquiry, the first petitioner did not produce any proof for having submitted her application in time under Section 28-A of the Act to the first respondent. Though the petitioners submitted representation on 10.10.1996 to the third respondent herein, it is seen from the copy of the petition that there is affixture of Office Seal without any signature which raised doubt about its genuineness. Moreover, the third respondent is not an authority to the land acquisition to entertain the application under Section 28-A of the Act. Therefore, the claim of the petitioners was rejected.

6. Admittedly, the petitioners' lands were acquired and the value of the lands were determined at the rate of Rs.30/- per cent by the Acquisition Officer and subsequently, it was enhanced to Rs.193.18 per cent by the judgment and decree dated 06.09.1996 in L.A.O.P.No.98 of 1994 on the file of the Additional Sub Court, Chengalpattu. On the strength of the same,



the petitioners have submitted application under Section 28-A of the Act before the third respondent on 10.10.1996. Thus it is clear that within a period of 90 days from the date of the award passed in the said LAOP, the petitioners made their claim for re-determination of the value of the land for compensation on the strength of the Award passed in L.A.O.P.No.98 of 1994, dated 06.09.1996. However, the petitioners did not pursue the same and thereafter, they filed another representation claiming for re-determination of the value of the property under Section 28-A of the Act before the first respondent on 29.03.1997, which was received by the first respondent on 02.04.1997. However, this representation was not considered and subsequently, they made another representation, in which the order impugned in this Writ Petition was passed by the first respondent for the reason that the claim made by the petitioners, is barred by limitation. The third respondent, being the requisitioning body, only on their request, the subject lands were acquired for the purpose of developing the Maraimalai Nagar New Satellite Town. Therefore, the third respondent ought to have forwarded the same to the authority concerned for re-determination of compensation. Though the first and second respondents disputed the seal put up on the representation submitted by the petitioners', dated 10.10.1996, the third respondent have not denied the same. Therefore, the third respondent ought to have forwarded the same to the first respondent for re-determination of the value of the property.

7. Considering the above facts and circumstances, the petitioners being the losers of their respective properties by the acquisition and when the adjacent owners of the land received higher compensation at the rate of 193.18 per cent, the petitioners are also entitled to have the same compensation. They also submitted their said representation under Section 28-A of the Act within a period of 90 days from the date of judgment and decree passed in L.A.O.P.No.98 of 1994 dated 06.09.1996 on the file of the Additional Sub Court, Chengalpattu.

8. In view of the above discussion, the order impugned cannot be sustained and it is liable to be set aside. Accordingly the impugned order is set aside. However, the first respondent is directed to re-determine the value of the subject property comprised in S.Nos.160/1 and 163, under Section 28-A of the Act, in view of the judgment and decree passed in L.A.O.P.No.98 of 1994 dated 06.09.1996 on the file of the Additional Sub Court, Chengalpattu within a period of six weeks from the date of receipt of a copy of this order and disburse the same to the petitioners, within a period of two weeks thereafter.



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9. In the result, this Writ Petition is allowed. No costs.

Sd/-
Assistant Registrar(CS IV)

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Sub Assistant Registrar

To

1. The District Collector,
Kancheepuram District,
Kancheepuram.
2. The Special Tahsildar,
Maraimalai Nagar (Scheme)
Maraimalai Nagar,
Kattankulathur.
3. The Member Secretary,
CMDA, Chennai - 600 008.
4. The Additional Sub - Judge,
Chengalpattu.

+1cc to Mr.M.Rajasekhar,Advocate Sr.No.56016
+1cc to Mrs.P.Veena Suresh ,Advocate Sr.No.55970
+1cc to the Government Pleader, Sr.No.56665

W.P.No.9488 of 2014

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