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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P. No.13100 of 2014

1. Thangamani
2. M.Selvakumar ... Petitioners

-Vs-

1. The District Collector,
Erode District,
Perundurai Road,
Erode - 638 011.
2. The Special Tahsildar,
Land Acquisition in charge,
Revenue Division Officer,
Brough Road,
Erode - 638 001. ... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct respondents herein to refer the proceedings in award No.1/98 dated 25.03.1998 to competent Civil Sub Court at Erode for reference under Section 18 of the Land Acquisition Act, 1894, regarding petitioner's land situated in R.S.No.502/4 extent 0.52.0 Hec situated at Erode 'C' Village, Erode Taluk, Erode District concerned.

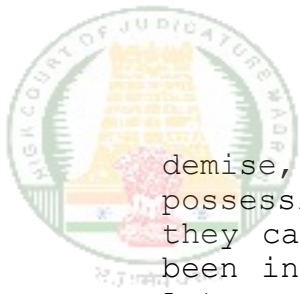
For Petitioners : Mr.V.Kadhirvelu

For Respondents : Mr.Richardson Wilson
Government Advocate.

ORDER

This petition has been filed to direct respondents herein to refer the proceedings in award No.1/98 dated 25.03.1998 to competent Civil Sub Court at Erode for reference under Section 18 of the Land Acquisition Act, 1894 (herein after called as "the Act") regarding the petitioner's land situated in R.S.No.502/4 extent 0.52.0 Hec situated at Erode 'C' Village, Erode Taluk, Erode District concerned.

2. The case of the petitioners is that the land to an extent of 0.52.0 hectares in R.S.No.502/4, situated at Erode Taluk & District, originally belonged to one Muthusamy viz., the husband and father of the petitioners herein. After his



demise, the petitioners are being the legal heirs, they are in possession and enjoyment of the said property. Thereafter, they came to understand that the acquisition proceedings have been initiated and the notification under Section 4(1) of the Act was issued on 10.02.1995. Thereafter the award has been passed on 25.03.1998 in Award No.1 of 1998.

3. According to the petitioners, no notice under Section 12(2) of the Act has been served with the petitioners or their predecessor. Further the said Muthusamy had already been filed a Writ Petition before this Court in W.P.No.2416 of 1998, challenging the acquisition proceedings and the same was dismissed on 21.09.2006. He also preferred an appeal in W.A.No.1499 of 2007 and the same was also dismissed on 06.02.2010. Aggrieved by the same, he preferred an appeal before the Hon'ble Supreme Court of India in C.C.No.20174 of 2011 and the same was also dismissed by an order dated 09.12.2011.

4. It is also seen that in the similar matter in W.P.No.17270 of 2003, this Court directed the respondents to refer the award passed in Award No.1 of 1998 dated 25.03.1998 under Section 18 of the Act, to the Civil Court to determine the value of the land. Aggrieved by the same, the Tamil Nadu Housing Board filed an appeal in W.A.No.1537 of 2012 before this Court and the same was also dismissed by an order dated 07.08.2012. Subsequently, the respondents had referred the matter under Section 18 of the Act for enhancement of the compensation. Finally, this Court considered the sale deed dated 08.02.1991 (Ex.C.8) as basic document for arriving at the market rate and after deducting the 40% by way of development charges and 20% by way of small size of the plot and arrived at the market rate at Rs.5,22,720/- per acre.

5. Aggrieved by the same the land owners filed appeal in Civil Appeal Nos.6127 & 6128 of 2011 and the Hon'ble Supreme Court of India by an order dated 01.08.2011, determined the value of the land, under the same notification under Section 4(1) of the Act, dated 10.02.1995, which was published in the Government Gazette on 15.03.1995, in respect of the similarly placed lands, on the basis of the sale deed dated 08.02.1991 by adding 10% per annum in lieu of escalation in the land prices and deducting 1/3rd towards development cost, and fixed marked value of the acquired land at Rs.29.2 per sq.ft., which is rounded off to Rs.30/- per sq.ft. The Hon'ble Supreme Court of India further directed as follows :-

"27. With a view to ensure that the landowners are not fleeced by the middleman, 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 Office shall depute an officer subordinate to him



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not below the rank of Naib Tehsildar 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 concerned officers shall instruct the landowners and/or their legal representatives to open savings bank account in a nationalized 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 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."

Therefore, the petitioner is also entitled for the compensation at the rate fixed by the Hon'ble Supreme Court of India by an order dated 01.08.2011 for the land acquired from the petitioner.

6. Considering the above facts and circumstances, the second respondent is directed to determine the compensation as per the land value fixed by the Hon'ble Supreme Court of India for the petitioner's land and disburse the same within a period of twelve weeks from the date of the receipt of a copy of this Order.

7. With the above directions, this Writ Petition stands disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rts

To

1. The District Collector,

Erode District,

Perundurai Road, Erode-638 001.



2. The Special Tahsildar,
Land Acquisition in Charge,
Revenue Divisional Officer,
Brough Road,
Erode-638 001.

W.P.No.13100 of 2014

CA (CO)
SB (23/11/2021)