



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.21817, 21819 of 2021

M.Mariappan ... Petitioner W.P.No.21817 of 2021

M.Natarajan ... Petitioner W.P.No.21819 of 2021

Vs

1. The District Collector,  
Namakkal District,  
Namakkal.

2. The Special Tahsildar (Land Acquisition),  
Salem - Karur Broad Gauge  
Railway Line Project,  
Namakkal.

... Respondents in both WP's

Prayer in W.P.No.21817 of 2021 : Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to pass fresh award by re-determining the amount of compensation in accordance with Section 28A of the Land Acquisition Act, 1894 in the light of Judgment and Decree dated 09.04.2018, made in L.A.O.P.No.79 of 2008 on the file of the Subordinate Court, Rasipuram with respect to the land acquired from the Petitioner herein, comprised in Survey Nos.104/4B, 104/1A2 and 106/4B measuring an extent of 0.18.5 Hectare situated in Athanur Village, Rasipuram Taluk, Namakkal District, based on the representation of the petitioner dated 01.08.2019.

Prayer in W.P.No.21819 of 2021 : Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to pass fresh award by re-determining the amount of compensation in accordance with Section 28A of the Land Acquisition Act, 1894 in the light of Judgment and Decree dated 09.04.2018, made in L.A.O.P.No.79 of 2008 on the file of the Subordinate Court, Rasipuram with respect to the land acquired from the Petitioner herein, comprised in Survey Nos.104/1B2 and 105/1B measuring an extent of 0.16.0 Hectare situated in Athanur Village, Rasipuram Taluk,



Namakkal District, based on the representation of the petitioner dated 01.08.2019.

WEB COPY

For Petitioner : Mr.D.Vairamoorthy  
in both WP's  
For Respondents : Mr.A.Selvendran,  
in both WP's Government Advocate

#### O R D E R

The W.P.No.21817 of 2019 is filed to issue a Writ of Mandamus directing the respondents to pass fresh award by re-determining the amount of compensation in accordance with Section 28A of the Land Acquisition Act, 1894 in the light of Judgment and Decree dated 09.04.2018, made in L.A.O.P.No.79 of 2008 on the file of the Subordinate Court, Rasipuram with respect to the land acquired from the Petitioner herein, comprised in Survey Nos.104/4B, 104/1A2 and 106/4B measuring an extent of 0.18.5 Hectare situated in Athanur Village, Rasipuram Taluk, Namakkal District, based on the representation of the petitioner dated 01.08.2019.

2. The W.P.No.21819 of 2019 is filed to issue a Writ of Mandamus directing the respondents to pass fresh award by re-determining the amount of compensation in accordance with Section 28A of the Land Acquisition Act, 1894 in the light of Judgment and Decree dated 09.04.2018, made in L.A.O.P.No.79 of 2008 on the file of the Subordinate Court, Rasipuram with respect to the land acquired from the Petitioner herein, comprised in Survey Nos.104/1B2 and 105/1B measuring an extent of 0.16.0 Hectare situated in Athanur Village, Rasipuram Taluk, Namakkal District, based on the representation of the petitioner dated 01.08.2019.

3. The case of the petitioner is that the petitioner in W.P.No.21817 of 2019 owned land comprised in Survey Nos.104/4B, 104/1A2 and 106/4B admeasuring to an extent of 0.18.5 Hectare situated in Athanur Village, Rasipuram Taluk, Namakkal District.

4. The case of the petitioner is that the petitioner in W.P.No.21819 of 2019 owned land comprised in Survey Nos.104/1B2 and 105/1B admeasuring to an extent of 0.16.0 Hectare situated in Athanur Village, Rasipuram Taluk, Namakkal District.

5. The said land was acquired by the second respondent for the purpose of forming Salem-Karur Broad Gauge Railway Line in Athanur Village. The notification under Section 4(1) of the Land Acquisition Act, 1894 was published in two local dailies on 30.01.1999 and 31.01.1999. Since, the emergency provision under



Section 17 was invoked and as such the enquiry as contemplated under Section 5A was dispensed with. Thereafter, the Draft Declaration under Section 6 of the Land Acquisition Act was published under the Tamil Nadu Government Gazette on 12.05.1999.

WEB COPY

6. After completion of award enquiry the second respondent passed an award on 30.10.1989 in Award No.13 of 1999 vide Roc.No.82/98 Unit I. As per the award the second respondent fixed compensation at Rs.2,05,140/- per Hectare for Wet lands and at Rs.74,100/- per Hectare for the Dry lands. The said amount has been deposited into the Subordinate Court, Namakkal under Section 30 of the Land Acquisition Act in L.A.O.P.Nos.33, 34 of 2000, since the petitioner could not able to produce document pertaining to ownership during award enquiry.

7. In view of the pendency of the said L.A.O.P the second respondent had not made any application under Section 18 of the Land Acquisition Act for reference. However, similarly placed land owners under the very same notification under Section 4(1) of the Act sought for reference under Section 18 of the Land Acquisition Act. The reference was made in L.A.O.P.No.79 of 2008 on the file of the Subordinate Court, Rasipuram.

8. By an order dated 09.04.2018 the Subordinate Court, Rasipuram enhanced the compensation at Rs.25/- per sq.ft., in respect of both wet and dry lands in L.A.O.P.No.79 of 2008. The petitioner immediately after coming to the knowledge of the award passed in L.A.O.P.No.79 of 2008 dated 09.04.2018, he applied for certified copy of the said Judgment and Decree on 13.04.2018. The Judgment and Decree was made ready only on 15.05.2019 and the same was received by his counsel on 22.05.2019. On receipt of the Judgment and Decree, the petitioner made his representation on 01.08.2019 within the prescribed time limit as contemplated under Section 28A of the Land Acquisition Act. However, the first respondent did not consider the same and simply kept the same pending.

9. Considering the above, the first respondent is directed to consider the representation of the petitioner dated 01.08.2019 under Section 28A of the Land Acquisition Act as per the Judgment and Decree passed in L.A.O.P.No.79 of 2008 on the file of the Subordinate Court, Rasipuram dated 09.04.2018 and re-determine the value of the land comprised in Survey Nos.104/4B, 104/1A2 and 106/4B, admeasuring an extent of 0.18.5 Hectare and in Survey Nos.104/1B2 and 105/1B, admeasuring to an extent of 0.16.0 Hectare situated in Athanur Village, Rasipuram Taluk, Namakkal District and pass orders on merits and in accordance with law within a period of twelve weeks thereafter.



WEB COPY

10. With the above directions, these writ petitions disposed of. No order as to costs.

Sd/-  
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rna

To

1. The District Collector,  
Namakkal District,  
Namakkal.
2. The Special Tahsildar (Land Acquisition),  
Salem - Karur Broad Gauge  
Railway Line Project,  
Namakkal.
3. Subordinate Judge,  
Rasipuram.

+2CCs to Mr.S.Senthil, Advocate, Sr.Nos.58263,58262  
+1CC to Mr.Government Pleader, Sr.No.58039

W.P.Nos.21817, 21819 of 2021

CP (CO)  
K.RK. (26.11.2021)