



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.2588 of 2012 and  
W.M.P.No.1 of 2013

1. Rajammal
  2. Radhabai
  3. Santhabai
  4. Sundaribai
  5. B.Kannan
- ... Petitioners

Vs.

1. The Special Tahsildar (Land Acquisition),  
Revenue Divisional Officer,  
Tamil Nadu Magnazite Limited,  
Mettur,  
Salem District.
  2. Tamil Nadu Magnazite Limited,  
Rep. By its Managing Director,  
Omalur Main Road,  
Jagir Ammapalayam,  
Salem-636 302.
  3. State of Tamilnadu,  
Rep. By its Secretary to Government,  
Industries Department,  
Fort St. George, Chennai-600009.
  4. The District Collector,  
Salem District,  
Salem.  
(R3, R4 impleaded vide order dated 23/02/2021  
Made in MP.1/2013 in W.P.No.2588/2012 by SSSRJ)
- ... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for records comprised in reference No.L47/2010 dated 19.09.2011 on the file of the 2<sup>nd</sup> respondent and quash the same and consequently direct the respondents to pay enhanced compensation as arrived at in LAOP No.7 of 1993 on the file of the learned Subordinate Judge, Salem as confirmed by the Supreme Court of India in Civil Appeal Nos.6244 to 6248 of 2001 dated 24.02.2010.



For Petitioners

: Mr.R.Bharanidharan

For Respondent R1

: Mr.C.Kathiravan,  
Special Government Pleader

For Respondent R2

: Mr.T.Sathiyamurthy  
for M/s.G.M. Mani Associates

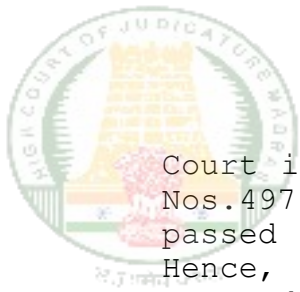
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### O R D E R

The petitioners have filed the writ petition seeking quashment of the impugned order passed by the 2<sup>nd</sup> respondent and to direct the respondents to pay enhanced compensation as arrived at in LAOP No.7 of 1993 on the file of the learned Subordinate Judge, Salem.

2.The case of the petitioners is that they are the owners of the land situated in Survey No.90, 91 and 102 of Thathaiyangarpatti Village, Omalur Taluk, Salem District measuring an extent of 24.53 acres. While so, the 1<sup>st</sup> respondent issued an order dated 08.02.1984 in G.O. Ms. No.149, Industries Department and the lands of the petitioners were acquired and compensation was fixed to a sum of Rs.18,000/- per acre for irrigated portion and a sum of Rs.15,000/- for un-irrigated portion of lands. Discontented with the same, the petitioners filed LAOP Nos.7 & 9 of 1993 on the file of the Sub Court, Salem and the Court below enhanced the compensation to an amount of Rs.1,75,000/- per acre for both irrigated and un-irrigated lands, against which appeal was filed and this Court by its order dated 15.02.2001 reversed the said judgement. Aggrieved by the said order, similarly situated persons, who lost their lands filed Civil Appeal Nos.6244 to 6248 of 2001 before the Hon'ble Apex Court and the same was allowed by the Apex Court. In order to avail the enhanced compensation amount as awarded to the similarly situated persons, the petitioners made a representation dated 26.03.2011 to the 2<sup>nd</sup> respondent. However, no orders were passed on the said representation. The petitioners were constrained to file a Writ Petition in W.P.No.11860 of 2011 before this Court. This Court issued direction to the respondents to consider petitioner's representation. However, instead of the 1<sup>st</sup> respondent, the 2<sup>nd</sup> respondent passed orders rejecting the petitioner's representation, which is contrary to the Section 28 A of the Land Acquisition Act, 1894. Hence, the Writ Petition has been filed.

3.The learned counsel for the petitioners submitted that though this Court has issued direction to the 1<sup>st</sup> respondent herein to consider the petitioner's representation for enhancement of compensation in the light of decision of the Apex



Court in Civil Appeal Nos.6244 to 6248 of 2001 and Civil Appeal Nos.497 to 504 of 2002, contrary to the same, the 2<sup>nd</sup> respondent passed the order rejecting the petitioner's representation. Hence, it would suffice, if this Court issue direction to the 1<sup>st</sup> respondent to consider the petitioner's representation dated 26.03.2011 in the light of the order of the Apex Court and as per Section 28 A of the Land Acquisition Act, 1894.

4. The learned Special Government Pleader appearing for the 1<sup>st</sup> respondent have no serious objection for the above said order being passed.

5. Facts in the present case is not in dispute. Section 28 A of the Land Acquisition Act, 1894 pertains to redetermination of the amount of compensation on the basis of the award and the same is extracted hereunder:

" 1. Where in an award under this Part, the Court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under Section 11, the persons interested in all the other land covered by the same notification under Section 4, sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector under Section 18, by written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the Court: Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the time requisite for obtaining a copy of the award shall be excluded.

2. The Collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard, and make an award determining the amount of compensation payable to the applicants.

3. Any person who has not accepted the award under sub-section (2) may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court and the provisions of Sections 18 to 28 shall, so far as may be, apply to such reference as they apply to a reference under Section 18."

6. In view of the above, it is evident that the order passed by the Hon'ble Apex Court dated 24.02.2010 in favour of the similarly situated persons would also enure to the



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petitioners herein. However, the petitioner's representation dated 26.03.2011 was not considered by the 1<sup>st</sup> respondent, but by the 2<sup>nd</sup> respondent who has passed the impugned order dated 19.09.2011 by rejecting the petitioner's representation which is not sustainable and requires to be interfered.

7. Accordingly, this Court sets aside the impugned order passed by the 2<sup>nd</sup> respondent dated 19.09.2011 and the matter is remanded to the file of the 1<sup>st</sup> respondent for fresh consideration of the petitioner's representation in the light of the above provisions and also the order of the Apex Court in Civil Appeal Nos.6244 to 6248 of 2001 and Civil Appeal Nos.497 to 504 of 2002 and pass appropriate orders within a period of twelve weeks from the date of receipt of a copy of this order.

8. Accordingly, this Writ Petition is allowed. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-IX)

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Sub Assistant Registrar

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To

1. The Special Tahsildar (Land Acquisition),  
Revenue Divisional Officer,  
Tamil Nadu Magnazite Limited,  
Mettur,  
Salem District.
2. The Managing Director,  
Tamil Nadu Magnazite Limited,  
Omalar Main Road,  
Jagir Ammapalayam,  
Salem-636 302.
3. The Secretary to Government,  
State of Tamilnadu,  
Industries Department,  
Fort St. George, Chennai-600009.
4. The District Collector,  
Salem District, Salem.

+1cc to the Government Pleader, S.R.No.8992

W.P.No.2588 of 2012

MT(CO)  
SB(08/03/2022)