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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.24935 of 2013

M.Rajendran (Deceased)

2. R.Vanaja

3. R.Rajiniganth

4. R.Rajeetha

... Petitioners

(P2 to P4 substituted as LRs of
deceased sole petitioner in W.M.P.No.26706 of 2021
in W.P.No.24935 of 2013 dated 09.012.2021)

Vs

1. The Special Tahsildar,
(Land Acquisition)
Naval Air Station Project,
Unit -5, Arakonam.

2. The Defence Estate Officer,
Defence Department,
Chennai Circle,
306, Anna Salai,
Chennai - 600 018

... Respondents

(R2 cause title amended as per order
dated 03.11.2014 by CSKJ in
M.P.No.1 of 2014 in W.P.No.24935 of 2013)

Writ Petition is filed under Article 226 of the
Constitution of India praying to issue a Writ of Mandamus for a
direction to the respondents to pay Rs.750/- per cent for 1 acre
75.1/2 cents of land comprised in Survey Nos.34/5 - 0.35, 34/7 -
12.1/2 cents, 29/4 -1 acre 28 cents in Cheyyar Village,
Arakkonam Taluk acquired and subject matter of L.A.O.P.No.682 of
1991 with interest and solatium after deducting the amount paid.

For Petitioner : Mr.M.V.Ananthakrushnan

For Respondent-1 : Mr.G.Ameedius
Government Advocate

For Respondent-2 : Mr.B.Sudhir Kumar, SPC



ORDER

This writ petition is filed seeking issuance of a Writ of Mandamus to direct the respondents to pay Rs.750/- per cent for 1 acre 75 ½ cents of land comprised in Survey Nos.34/5 -0.35, 34/7 - 12 ½ cents and 29/4 - 1 acre 28 cents in Cheyyar Village, Arakkonam Taluk acquired, being the subject matter of L.A.O.P.No.682 of 1991, with interest and solatium, after deducting the amount paid.

2. (i) The case of the petitioner is that the lands comprised in Survey No.34/5 - 70 cents, Survey No.34/7, - 25 cents and Survey No.29/4 - 2 acre 56 cents, ad-measuring in all 3 acres 51 cents, were acquired under the Land Acquisition Proceedings, which formed part of the joint family properties belonged to Munisamy Naidu and Narasimhalu Naidu. The petitioner was born to the said Munisamy Naidu. The original petitioner's father's brother's wife, viz., Kamalammal filed a suit in the year 1980 for partition before the District Munsif Court, Sholinghur as against the petitioner's father. Subsequently, it was transferred to Sub-Court, Ranipet and re-numbered as O.S.No.351/1991. During the pendency of the partition suit, the entire property measuring an extent of 3 acres and 51 cents in Survey Nos.34/5, 34/7 and 29/4, along with other properties, were acquired by the Navy Air Force Authority under the Land Acquisition Act. The writ petitioner's father's brother's wife filed an application, restraining the Central Government from paying the compensation amount to the petitioner.

(ii) In the meanwhile, the concerned District Collector referred the acquisition proceedings to determine the enhancement of compensation for the subject lands, which were allotted in favour of the original writ petitioner's father's brother's wife, of an extent of 1 acre 75 ½ cents under Section 18 of the Land Acquisition Act, 1894 and numbered as L.A.O.P.No.682 of 1991 and by Judgement and Decree dated 26.11.1999, the Sub Court, Ranipet fixed the compensation amount at Rs.375/- per cent for Manavari Nanjai and Rs.450/- per cent for Punjai for share of petitioner's father's brother's wife. In the meanwhile, the petitioner's father, Munisamy Naidu, died on 14.01.1995 and the petitioner was brought on record as the only legal heir of the said deceased. The petitioner filed an application in I.A.No.67 of 2001 in O.S.No.351/1991, which was filed by the said Kamalammal for partition, and obtained an order of stay against the respondents therein from disbursing the compensation amount. In pursuance of the Compromise entered into between the petitioner and petitioner's father's brother's wife, viz., Kamalammal, on 19.11.2001, the petitioner was declared as owner of the property including the properties, which were acquired under the Land Acquisition Proceedings. The



said Kamalammal gave no objection and consent for the petitioner to receive the entire compensation, as per the Judgement and Decree dated 26.11.1999 passed in L.A.O.P.No.682 of 1991. She has also executed an Assignment Deed dated 13.03.2002, thereby, assigned the decree passed by the Sub Court, Ranipet in L.A.O.P.No.682 of 1991 in favour of the petitioner. Thereafter, the petitioner filed an appeal for enhancement of compensation as against the judgment and decree passed in L.A.O.P.No.682 of 1991 before this Court along with the condone delay petition. However, this Court, dismissed the condone delay petition, by order dated 03.01.2006, which was also confirmed by the Hon'ble Supreme Court, in S.L.P.No.1 of 2006, by order dated 01.05.2006.

(iii) In the meanwhile, the other land owners under the same acquisition proceedings have preferred a batch of appeals in A.S.No.51 of 2001 on the file of this Court for enhancement of compensation. This Court, by order dated 24.06.2004, enhanced the compensation for Punja from Rs.450/- and Rs.375/- Manaveri Nanja to Rs.750/- per cent, irrespective of the classification of the lands either Manavari Nanjai or Punjai and location of the land. That apart, the other lands, which were owned by the petitioner, were also acquired and the petitioner preferred an Appeal Suit in A.S.No.990 of 2007 on the file of this Court for enhancement of compensation, which was also allowed by this Court, by judgment and decree dated 03.08.2010, thereby, the compensation was enhanced to Rs.750/- per cent. The Appeal Suit filed by the first respondent in A.S.No.881 of 2006, etc batch was dismissed by this Court, by Judgment and decree dated 13.08.2007. This Court, on various suits, filed by the adjacent land owners, enhanced the compensation from Rs.450/- to Rs.750/- per cent, which were acquired under the same acquisition proceedings and the same was also confirmed by the Hon'ble Supreme Court in S.L.P.(Civil) No.4362 of 2005 on 24.06.2004 in a batch of cases filed by the Government. Thereafter, the original petitioner made a request for enhancement of compensation for the land, which were acquired through the compromise entered into between himself and his father's brother's wife on 19.11.2001 for the lands comprised in Survey Nos.34/5, 34/7, 29/4, totalling an extent of 3 acres 51 cents, with interest and solatium.

3. Pending the present writ petition, the petitioner, viz., M.Rajendran died on 12.06.2021, leaving behind the legal heirs, viz., (i) R.Vanaja, (ii) R.Rajiniganth and (iii) R.Rajeetha and they have been brought on record in this writ petition as legal heirs of the deceased sole petitioner, by order of this Court dated 09.12.2021 in W.M.P.No.26706 of 2021.

4. The learned counsel for the petitioners pointed out that the petitioners may not be deprived of enhancement of



compensation on technical and procedural ground and that the petition to condone the delay of filing an appeal was dismissed on merits and on facts, the petitioners are entitled to compensation at Rs.750/- per cent. It is also pointed out that similarly placed persons should not be deprived of legal rights to receive the compensation. In fact, the deceased petitioner himself received the enhanced compensation for the remaining extent of the land comprised in very same survey Numbers.

5. In support of his contentions, the learned counsel for the petitioners has relied on a decision of the Hon'ble Supreme Court reported in AIR 2003 SC 620 [JALANDHAR IMPROVEMENT TRUST VS.STATE OF PUNJAB AND OTHERS], wherein, it has been held that, even on the first principles of law, one co-owner is entitled to have the benefit of the enhanced compensation in respect of the other co-owners in a reference made at his instance in respect of the land acquired, which belonged to all of them jointly. A reference made on a belated application does not make any difference and there is no reason, in our view, to differentiate the claims of such co-owners whose claims came to be really sustained.

6. The learned counsel for the petitioners also relied on a Judgement of the Delhi High Court reported in AIR 2004 Delhi 351 [SMT. KALAWATI AND OTHERS VS. UNION OF INDIA AND OTHERS], wherein, it was held that when co-sharer was given higher compensation and land acquired being same in which the petitioners also had undivided interest, the petitioners could not be denied equal treatment. In equity also, the function of the Courts was to do substantial justice. Such a treatment, the petitioners were entitled to, on the first principles, that a co-owner of the land was entitled to same treatment as given to other co-owner. The two co-owners of a property, which is acquired by the Government, be treated alike by paying same amount of compensation, which would be meeting out fair and equal treatment to them. Further, in the above Delhi High Court decision, it was held in paragraph 20 as follows:

"That was also a case of co-owners of land. After the compensation was fixed by the LAC in his Award, respondent No.4 had sought reference under Section 18 of the Act which was rejected because of delay. However, reference of the petitioners 2 to 5, who were co-owners of land along with respondent No.4, was allowed and enhanced compensation was granted. After enhancement of the compensation, respondent No.4 moved an application under Section 28-A of the Act, which was allowed by the LAC. Jalandhar Improvement Trust, the beneficiary in which the land was acquired, challenged it by filing writ petition which was dismissed by a Division Bench of



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the Punjab and Haryana High Court. In further appeal to the Supreme Court, the Jalandhar Improvement Trust took up the contention to the effect that Section 28-A was not applicable as it was not a case where respondent No.4 had not sought reference under Section 18 of the Act but said reference was rejected albeit on the ground of delay. The Supreme Court did not deem it even necessary to go into this question and dismissed the appeal of the Jalandhar Improvement Trust holding that co-owners of the land could not be given differential treatment."

7. On a perusal of counter affidavit filed by the second respondent, it was found that only the deceased petitioner filed an appeal as well as SLP against the judgment of the Reference Court rendered in L.A.O.P.No.682 of 1991 on the file of the Sub Court, Ranipet and the same were dismissed. Therefore, the petitioners are not entitled to file another suit for enhancement based on other judgments.

8. Admittedly, the properties comprised in Survey Nos.34/5, 34/7, 29/4, totalling an extent of 3 acres 51 cents, were divided and allotted to each one of the deceased petitioner's father and his father's brother's wife, to an extent of 1 acre 75.1/2 cents. In L.A.O.P.No.682 of 1991, the Land Acquisition Court awarded the compensation of Rs.375/- per cent for dry land and Rs.450/- per cent for wet land in respect of the land measuring to an extent of 1 acre and 75 ½ cents. The appeal filed by the deceased deceased petitioner was dismissed at the stage of condone delay itself and the same was also confirmed by the Hon'ble Supreme Court on 01.05.2006 in S.L.P.No.1 of 2006.. However, under the same acquisition proceedings, the other land owners had filed appeal suits before this Court in A.S.No.51 of 2001 for enhancement of compensation. This Court, by judgment and decree dated 24.06.2004, enhanced the compensation amount to Rs.750/- per cent irrespective of classification of the lands either Manavari Nanjai or Punjai and location of the land. In fact, the deceased petitioner also filed an Appeal Suit in A.S.990 of 2007 in respect of the other lands owned by them in Survey Nos.34/1, 24/4 and 34/6 and by Judgment and Decree dated 03.08.2010, this Court enhanced the compensation to Rs.750/- per cent.

9. In view of the dictum laid down by the Hon'ble Supreme Court in the decision quoted above, the compensation is paid only to indemnify a person and it should normally be an equivalent, or substitute of equal values. The principle of equivalence which is at the root of statutory compensation postulates that the expropriated owners shall be paid neither less nor more than his loss. Further, two co-owners of a



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property, which is acquired by the Government, be treated alike by paying same amount of compensation which would be meeting out fair and equal treatment to them. Therefore, the above judgments cited by the learned counsel for the petitioners are squarely applicable to the facts of the case on hand.

10. Further, in a decision reported in (1993) 4 SCC 269 (Union of India and others -vs- R.Redappa and Another, the Hon'ble Supreme Court of India, has also held that when once the Court is satisfied of justice or arbitrariness, then the restrictions, self-imposed or statutory, stands removed and no rule of technicality or exercise of power can stand in the way of rendering justice. Giving equal treatment to similarly placed persons without discrimination, is the fundamental right guaranteed under the Constitution of India and the law Courts are bound to protect the said right.

11. In view of the above referred decisions, the petitioners, being the legal heirs of the deceased original petitioner, are entitled to enhancement at Rs.750/-per cent in respect of the lands comprised in Survey Nos.34/5, 34/7, 29/4, totalling an extent of 3 acres 51 cents in Cheyyar Village, Arakkonam Taluk acquired, being the subject matter of L.A.O.P.No.682 of 1991 on the file of the Sub Court, Ranipet. Accordingly, the respondents are directed to pay the enhanced compensation of Rs.750/- per cent along with interest and solatium after deducting the amount, which was already paid within a period of eight weeks from the date of receipt of a copy of this order.

12. In the result, this Writ Petition is allowed as prayed for. No costs.

Sd/-

Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

srn

To

1. The Special Tahsildar,
(Land Acquisition)
Naval Air Station Project,
Unit -5, Arakkonam, Ranipet, Vellore District.



2. The Defence Estate Officer,
Defence Department,
Chennai Circle,
306, Anna Salai,
Chennai - 600 018

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Copy To:

The Sub-Judge,
Ranipet.

+1cc to Mr.B.Sudhir Kumar, Advocate, S.R.No.4689

+1cc to Mr.K.V.Ananthakrushnan, Advocate, S.R.No.5047

+1cc to the Government Pleader, S.R.No.5265

W.P.No.24935 of 2013

KSM(CO)
SB(14/02/2022)