



Rev.Appl.Nos.161 & 162 of 2022

Rev.Appl.Nos.161 & 162 of 2022

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G.K.ILANTHIRAIYAN, J.

At the instance of the learned counsel for the petitioners, today this matter has been posted under the caption “for being mentioned”.

2. The learned counsel for the petitioners would submit that due to inadvertence, the extent of the land and the survey numbers have been wrongly mentioned in the above applications and requested to issue a fresh order copy in Rev.Appl.Nos.161 & 162 of 2022 dated 17.10.2022 after correcting the same.

3. In view of the submission of the learned counsel for the petitioners, the following corrections are ordered to be carried out:

(i) In the prayer portion in the second page of the order, in the eighth line, “*(0.70 acres)*” shall read as “*(0.71 acres)*”.

(ii) In the second paragraph of the order, in the sixth line, “*(0.70 acres)*” shall read as “*(0.71 acres)*” and in the seventh line, “*789/2*” shall read as “*786/2*”.



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WEB COPY (iii) In the eighth paragraph of the order, in the sixth line, “**(0.70 acres)**” shall read as “**(0.71 acres)**” and in the seventh line, “**789/2**” shall read as “**786/2**”.

4. Accordingly, the Registry is directed to issue a fresh order copy in Rev.Appl.Nos.161 & 162 of 2022 dated 17.10.2022 after making necessary corrections.

25.11.2022

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Note: Issue order copy on 28.11.2022



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G.K.ILANTHIRAIYAN, J.

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25.11.2022



Rev.Appl.Nos.161 & 162 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Review Application Nos.161 & 162 of 2022

Rev.Appl.No.161 of 2022;

K.Ganesan

...Petitioner

Vs.

1.The Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St.George,
Chennai – 9.

2.The Member Secretary,
Chennai Metropolitan Development Authority,
"Thalamuthu Natarajar Maligai",
Gandhi Irwin Road,
Egmore, Chennai – 8.

3.The Special Tahsildar (LA) III and
Land Acquisition Officer,
CMDA, Guindy,
Chennai – 600 032.

... Respondents

Prayer : Review Application filed under Order 47 Rule 1 and 2 read with



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Section 114 of Civil Procedure Code, prays to review the order passed by this Court in W.P.No.14256 of 2019 dated 17.11.2021.

Rev.Appl.No.162 of 2022;

P.Mohan

...Petitioner

Vs.

1.The Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St.George,
Chennai – 9.

2.The Member Secretary,
Chennai Metropolitan Development Authority,
"Thalamuthu Natarajar Maligai",
Gandhi Irwin Road,
Egmore, Chennai – 8.

3.The Special Tahsildar (LA) III and
Land Acquisition Officer,
CMDA, Guindy,
Chennai – 600 032.

... Respondents

Prayer : Review Application filed under Order 47 Rule 1 and 2 read with Section 114 of Civil Procedure Code, prays to review the order passed by this Court in W.P.No.14255 of 2019 dated 17.11.2021.

(In both cases)



Rev.Appl.Nos.161 & 162 of 2022

For Petitioner : Mr.G.Karthikeyan

For Respondents

For R1 & R3 : Mr.S.P.Karthick
Government Advocate

For R2 : Mr.P.Kumaresan
Additional Advocate General
assisted by Mr.C.N.Vinobha,
Senior Counsel for CMDA

COMMON ORDER

These Review Applications have been filed as against the orders passed by this Court in W.P.Nos.14255 and 14256 of 2019 respectively dated 17.11.2021.

2. The writ petitions were filed for directing the respondents to consider the representation of the petitioner dated 18.06.2018 and 17.09.2018 respectively for enhancement of compensation in terms of the judgment rendered in LAOP.No.2597 of 1998 batch dated 02.09.2015 on the file of the Sub-court, Ponneri, in respect of his lands in Survey **Nos.814/2 (0.70 acres)**, 818 (0.80 acres) and **789/2 (1.54 acres)** respectively at Madhavaram Village,



then Saidapet Taluk, that was acquired for formation of bus and truck terminal by the MMDA (now CMDA).

3. This Court disposed of the writ petitions with a direction that the petitioners had submitted applications dated 17.09.2018 and 18.06.2018 respectively on the strength of the judgment passed in LAOP.No.2597 of 1998 dated 02.09.2015, belatedly beyond the period as stipulated under Section 28A of Land Acquisition Act, since the third respondent filed appeal suits as against the judgment decree in LAOP.No.2597 of 1998. Therefore, the petitioners are at liberty to make a fresh representation subject to the result of the appeal suits, which are pending in AS.Nos.431 to 477 of 2016 on the file of this Court under Section 28A of the Land Acquisition Act, before the respondents.

4. The learned counsel for the petitioner would submit that even at the time when orders were passed by this Court in W.P.Nos.14255 and 14256 of 2019 dated 17.11.2021, already the appeal suits, which were preferred by the



third respondent, were dismissed by the Division Bench of this Court, by an order dated 16.08.2017 by the judgment decree dated 16.08.2017 thereby confirming the order passed by the trial Court. Therefore, the Division Bench of this Court passed judgment/decreed to be taken into account for filing application under Section 28A of Land Acquisition Act. Even if the date of judgment/decreed has been taken into account for consideration, there was delay by 214 days in filing the said application under Section 28A of Land Acquisition Act. However, the petitioners are ready and willing to pay the interest for the said period.

5. While considering their applications under Section 28A of Land Acquisition Act, the learned Additional Advocate General submitted that the trial Court awarded a sum of Rs.80/- to Rs.11.419/- per cent with 30% solatium with interest at the rate of 12% from the date of notification till the award and 9% till the payment of compensation.

6. However, the petitioners submitted application under Section 28A



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of Land Acquisition Act only on 17.09.2018 and 18.06.2018 respectively.

Therefore, as per the Act, the petitioners ought to have submitted their applications within a period of three months from the date of judgment/decrece passed by the trial Court or by the Appellate Court. Therefore, the petitioners are not entitled for any enhancement of compensation on par with others.

7. Heard Mr.G.Karthikeyan, the learned counsel for the petitioner, Mr.P.Kumaresan, learned Additional Advocate General, assisted by Mr.C.N.Vinobha, Senior Counsel for the second respondent and Mr.S.P.Karthick, learned Government Advocate, for the first and third respondent and perused the materials available on record.

8. It is seen that the petitioner filed writ petitions before this Court seeking direction to the respondents to consider their representations for enhancement of compensation in terms of the judgment rendered in LAOP.No.2597 of 1998 on the file of the Sub-court, Ponneri, in respect of their lands comprised in **Survey Nos.814/2 (0.70 acres)**, 818 (0.80 acres) and 789/2



(1.54 acres) respectively at Madhavaram Village, then Saidapet Taluk, and the same were acquired for formation of bus and truck terminal by the MMDA (now CMDA).

9. At the time of disposal of the writ petitions either the petitioner or the respondents failed to bring to the notice of this Court that aggrieved by the said judgment/decree passed by the trial Court, the third respondent filed appeal suits in AS.Nos.431 to 477 of 2016, which were already dismissed by this Court by the judgment/decree dated 16.08.2017.

10. On perusal of the judgment decree passed in AS.Nos.431 to 477 of 2016 revealed that the Division Bench of this Court dismissed the said appeals filed by the third respondent and confirmed the award passed by the trial Court. Therefore, the petitioners are also entitled for the same award amount for the land acquired for the very same project by the very same authorities concerned. However, the petitioners admittedly submitted their



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applications only on 17.09.2018 and 18.06.2018 respectively for enhancement of compensation as contemplated under Section 28A of Land Acquisition Act.

11. In this regard, it is relevant to rely upon the judgment passed by the Hon'ble Supreme Court of India in the case of ***Karam Chand (Dead) by Lrs. & Another Vs. State of Himachal Pradesh & Another***, wherein, the Hon'ble Supreme Court of India held that though the limitation is prescribed and it is expected that the aggrieved party takes remedies within such prescribed time, the delay can be extended in appropriate cases. Subject to declining the interest for the delayed period, the compensation can be re-determined and paid to the appellants.

12. In view of the above facts and circumstances, this Court is inclined to direct the third respondent to consider the petitioners' applications for enhancement of compensation as contemplated under Section 28A of Land Acquisition Act, after deducting the interest for the period of 214 days while enhancing the compensation payable to the petitioners herein. That apart, the



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period of limitation shall be calculated from the date of determining the compensation payable by the respondents from the date of judgment/decreed passed by the Hon'ble Division Bench of this Court dated 16.08.2017.

13. In view of the order passed by this Court, the Review Application is allowed and the third respondent is directed to consider the applications submitted by the petitioners dated 17.09.2018 and 18.06.2018 respectively and pay the compensation as per the judgment/decreed passed in AS.Nos.431 to 477 of 2016 on the file of the Hon'ble Division Bench of this Court, subject to determining the fixation in the delayed period, the compensation can be re-determined and paid to the petitioners herein, within a period of six weeks from the date of receipt of a copy of this order.

14. With the above direction, the Review Application stands disposed of.



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Index : Yes / No

Speaking / Non Speaking order

G.K.ILANTHIRAIYAN.J.,



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17.10.2022