



W.P.Nos.35948 to 35950 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2022

CORAM:

THE HON'BLE MR.JUSTICE **M.DHANDAPANI**

W.P.Nos.35948 to 35950 of 2016

R.Deivanaiammal ...Petitioner in W.P.No.35948 of 2016

R.Mohan ...Petitioner in W.P.No.35949 of 2016

R.Velu ...Petitioner in W.P.No.35950 of 2016

Vs.

1. The Government of Tamil Nadu,
Represented by its Secretary,
Revenue Department,
Fort St. George, Chennai - 600 009.
2. The District Collector,
Kancheepuram District,
Kancheepuram.
3. The Special Tahsildar (Land Acquisition),
SIPCOT UNIT - 1,
Irungattukottai Scheme,
First Floor, No.32, Gandhi Road,
Sriperumbudur - 602 105.
4. The Chairman and Managing Director,
SIPCOT,



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19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai - 600 008.

...Respondents in all W.P.'s

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Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 3rd respondent in his proceedings Na.Ka.No.16/2015 dated 26.07.2016 and quash the same consequently direct the 3rd respondent to enhance the compensation with solatium amount and disburse the same to the petitioner in view of the order passed by this Hon'ble Court in A.S.No.177 of 2006 dated 30.11.2009.

In all W.P's:-

For Petitioners : Mr.N.Manoharan
for Mr.S.Ramachandran

For Respondents : Mr.G.Krishna Raja, AGP, for R1 & 2
: Mr.Ramesh Venkatachalapathy, for R3 & 4

COMMON ORDER

Since the issue involved in all these Writ petitions are similar in nature, they are disposed of by way of this common order.

2. The petitioners have filed these Writ petitions seeking issuance of a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent in respect of the proceedings bearing Na.Ka.No.16/2015 dated 26.07.2016, quash the same and to consequently, direct the 3rd respondent to enhance the



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compensation with solatium amount and disburse the same to the petitioners in view of the order passed by this Court in A.S.No.177 of 2006 dated 30.11.2009.

3. The case of the petitioners is that they are in possession and enjoyment of certain extent of agricultural lands situated at Irungattukottai Village and the said lands were acquired by the 3rd respondent for the purpose of formation of Industrial Park and the compensation amount was fixed by the 3rd respondent at Rs.1/- per cent. Since, the compensation amount fixed was very low, some of the affected persons, filed different L.A.O.Ps. for enhancement of compensation before the Sub Court, Poonamallee and subsequently, the compensation amount was enhanced to Rs.3,000/- per cent with 30% Solatium. Aggrieved by the said enhancement, the 3rd respondent preferred an appeal Suit before this Court in A.S.No.177 of 2006 and the same was partly allowed on 30.11.2009 with a direction that, *the land value in all appeals are fixed at Rs.3,000/- per cent with 30% solatium and additional amount of Rs.12% per annum from the date of notification issued under Section 4(1) of the Land Acquisition Act, till the date of Award of the Referring officer, or taking possession of the*



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land, whichever is earlier and 9% interest for the 1st year from the date of taking possession of the land and 15% for every subsequent year, on the amount calculated as market value till the date of deposit and any excess amount if any deposited, after satisfying the above award, is permitted to be withdrawn by the appellant in all the appeals. Hence, in order to avail the above said benefit, the petitioners made separate representations on 19.11.2010 before the respondents 2 to 4, seeking for enhancement of compensation in terms of the Award passed in A.S.No.177 of 2006 etc., batch cases, however, the same were not considered. Aggrieved by the same, the petitioners filed Writ Petitions in W.P.Nos.24273 to 24275 of 2014 and this Court, vide order dated 18.11.2014, directed the respondents 2 to 4 to pass orders on the petitioners' representations. Pursuant to the same, the 3rd respondent has passed the present impugned order, vide proceedings bearing Na.Ka.16/2015 dated 26.07.2016, rejecting the petitioners' representations on the ground that the petitioners made representation beyond the period of limitation. Challenging the same, these Writ petitions have been filed.

4. Learned counsel for the petitioners submitted that in catena of



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decisions, this Court as well as the Hon'ble Apex Court has held that delay in making representation will not in any way deprive the rights of the petitioners to receive the enhanced compensation as awarded by the lower court as well as by this Court. Further, the time limit can be extended, as Section 28A is a beneficial legislation which is in favour of the land owners and the benefit has to be passed on to the land owners. In support of the aforesaid submissions, learned counsel for the petitioners relied upon the following decisions:-

(i) Bir Wati and others vs Union of India and another. ((2017) 16 SCC 548)

(ii) Karam Chand (Dead) by LRs & another vs State of Himachal Pradesh & another. (Civil Appeal No.17323 of 2017 dated 27.10.2017)

(iii) The District Collector vs M/s.Gupta Garments and others. (Writ Appeal Nos.1151, 1157, 1166 & 1172 of 2019 dated 05.04.2019)

(iv) The District Collector and others vs P.Nagabhushana Rao and others. (2003 (3) A.P.L.J 357 (HC))

(v) Bhusawal Municipal Council vs Nivrutti



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Ramchandra Phalak and others. ((2015) 14 SCC 327)

(vi) Model Economic Township Ltd. vs Land Acquisition Collector. (2019 SCC Online SC 275)

(vii) Union of India vs Susaka Private Limited and others. ((2018) 2 SCC 182)

5. Learned Standing Counsel appearing for the 3rd and 4th respondents did not dispute the submissions made by the learned counsel for the petitioners, however, he submitted that, the petitioners are not entitled to receive the interest for the delay period.

6. On the above said contentions, heard learned Additional Government Pleader appearing for the 1st and 2nd respondents and perused the materials available on record.

7. Admittedly, the petitioners herein did not make any representation seeking for reference under Section 18 of the said Act, and further, the reference Court, on the enhancement sought for by similarly situated persons, enhanced the compensation amount to Rs.3,000/- per cent with



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30% Solatium. However, the petitioners have not filed any LAOP seeking enhancement. But it is to be pointed out that merely because no petition has been filed seeking enhancement would not deprive the petitioners of the benefit of enhancement which has been provided to similarly placed persons by this Court in the decision in A.S.No.177 of 2006 etc., wherein, compensation amount was determined at Rs.3,000/- per cent along with other benefits, vide order of this Court dated 30.11.2009. The aforesaid fact is not in dispute and the grievance of respondents 3 and 4 is only to the limited extent of paying interest for the period during which the petitioners have kept quiet without seeking any enhancement. Further, learned counsel for the petitioners pressed into service the decision made by the Hon'ble Apex Court in the case of ***Bir Wati and others Vs. Union of India and another ((2017) 16 SCC 548)*** to substantiate his contention. For better appreciation, the relevant paragraph of the said decision is extracted hereunder:

12) In the light of aforesaid law laid down by this Court, one cannot dispute that so far as the appellants are concerned, notwithstanding dismissal of their reference application as being barred by limitation by the reference Court and the High Court,



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they still have a right to apply under [Section 28-A](#) of the Act to the Collector for re-determination of the compensation payable to them on the basis of the compensation awarded by the reference Court to other similarly situated landowners whose land was acquired along with the appellants' land.

13) It is true that one of the requirements to apply to the Collector under [Section 28-A](#) of the Act is to make an application within three months from the date of the award passed in other cases.

14) In this case, three months have already expired and the appellants were not able to make the application within three months or thereafter till date. However, having regard to the peculiar facts and circumstances of the case wherein we find that firstly, the bread earner of the appellants' family namely Jugal Kishore died during the pendency of the proceedings before the Collector long back; secondly, one of the appellants also expired during pendency of this appeal as reported; and thirdly, all the appellants are illiterates and unaware of the proceedings in question for years even after passing of the award and are also unaware of the legal and procedural requirements prescribed in the Act. It is due to these reasons, we are of the view that the appellants are entitled for indulgence.

15) In the light of the foregoing discussion, we are of the view that this is a fit case to allow the appellants to make an application to the concerned Collector under [Section 28-A](#) of the Act within three months from the date of receipt of this judgment i.e. on



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or before 17.12.2017 praying therein for payment of compensation to them in the light of the enhanced compensation, if already found awarded to other landowners in these very acquisition proceedings by the reference Court.

16) This indulgence to apply under [Section 28-A](#) of the Act is granted to the appellants by this Court in exercise of our powers conferred under [Article 142](#) of the Constitution which we do with a view to do complete and substantial justice to the appellants.

17) Let the Collector entertain the application, if made by the appellants within three months from the date of the order under [Section 28-A](#) of the Act and hold an inquiry as contemplated under [Section 28-A](#) of the Act for determining the

compensation, if found payable to the appellants under the Act. However, the appellants would not in such a case be entitled to claim any interest of any nature due to delay on their part. The Collector shall decide the application once made by the appellants within three months and release the payment of compensation as directed hereinabove in favour of appellants after making proper verification about their family relations with the original claimant etc.

(Emphasis Supplied)

8. It is to be pointed out that 28A is the beneficial piece of legislation to favour the beneficiaries and the time limit can be extended in favour of the



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land losers whose lands were acquired and the right provided under Article 300-A of the Constitution cannot be made obsolete by not paying the requisite compensation to the petitioners.

9. For the reasons aforesaid, the impugned order is liable to be set aside and the respondents are directed to pay the compensation in favour of the petitioners in terms of the decree passed in A.S.No.177 of 2006 etc., batch cases dated 30.11.2009. However, it is made clear that the petitioners would not be entitled to receive any interest for the period of delay, viz., from 30.11.2009 to 19.11.2010 and accordingly, the respondents are directed to pay the compensation to the petitioners, by excluding the interest for the period from 30.11.2009 to 19.11.2010.

10. For the reasons aforesaid, these Writ petitions are allowed. No costs.

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Index : Yes/No

Speaking order : Yes/No

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M.DHANDAPANI, J.

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