



W.P.No.39103 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.39103 of 2016

and

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- 1.Kousalya.
- 2.Pankajammal.
- 3.Ambujammal.
- 4.B.Pugazhendi.
- 5.Logammal.
- 6.K.Lakshmiammal.
- 7.Sakunthalammal.
- 8.K.Radhammal.
- 9.K.Subramani.
- 10.K.Ramakrishnan.
- 11.K.Goopalakrishnan.
- 12.K.Varalakshmi.
- 13.Poosammal.
- 14.A.Raja.
- 15.D.Ramayee.
- 16.Nagarajan.
- 17.K.Thangavelu.
- 18.K.Munirathinam.
- 19.K.Subathra.
- 20.S.Venkatachalam.
- 21.Kuppusamy.
- 22.Rajamani.
- 23.V.Sankariah.
- 24.V.Sekar.
- 25.K.Vijayasimhan.
- 26.Narayana Murthy.
- 27.R.Gurumoorthy.
- 28.Kasthuri.



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29.Ellaiya.

30.Bharathi.

31.P.Devarajalu.

32.K.Murugan.

33.M.Madikandan.

34.M.Gunasundari.

35.M.Padmini.

36.Chinna Ponnu.

37.Selvi.

38.S.Kiruba.

39.S.Babu.

40.S.Srinivasan.

41.A.Ramani.

42.R.Egambaram.

43.B.Gajendiran.

44.B.Puspavathi.

45.B.Sivamani.

46.B.Santha.

47.B.Rajendiran.

48.B.Leelavathi.

49.B.Puspakantham.

50.B.Nagajothi.

51.B.Suganthi.

52.B.Suresh Kumar.

53.K.Laxmi.

54.Indirani.

55.Rajendiraprasath.

56.Vani.

57.Mahendiran.

58.Narendiran.

...Petitioners

Vs.

1.The District Collector,
District Collectorate,
Thiruvallur District.
Thiruvallur.

2.Managing Director,
Tamil Nadu Housing Board,
493, Anna Salai, Nandanam,
Chennai – 600 035.



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3. District Revenue Officer,
Thiruvallur Collectorate,
Thiruvallur.

4. The Special Tahsildar, (LA) Unit IV
Tamil Nadu Housing Board Schemes,
No.493, Anna Salai, Nandanam,
Chennai – 600 035.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent in letter RC No.45700/2008/F3 dated 22.09.2016, quash the same and further direct the second respondent to disburse the re-determined compensation amount in respect of the lands of the petitioners/land holders.

For Petitioners : Mr.M.Rajaraman

For Respondents : Mr.T.K.Saravanan
Government Advocate for R1, R3 & R4.
: Mr.A.M.Ravindranath Jayapal for R2.

ORDER

This writ petition has been filed seeking to quash the order passed by the first respondent in letter RC No.45700/2008/F3 dated 22.09.2016 and further direct the second respondent to disburse the re-determined compensation amount in respect of the lands of the petitioners/land holders.

2. It is the case of the petitioner that the petitioner were holding various extent of lands in various survey numbers in Tirur Village. The Tamil Nadu



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Housing Board had requisitioned the State to acquire 75.20 acres of lands in Tirur Village for the implementation of Housing Scheme in Madras-Tiruvallur Railway line, under the provisions of Land Acquisition Act, for which, 4(1) Notification has been issued on 18.12.1982 and 6th declaration was published on 28.10.1985. An award was passed in Award Nos.1 to 6 in the year 1987 and fixing the compensation at Rs.100/- per cent. Aggrieved by the said Award, the neighboring land owners, requested to refer the matter under Section 18 of the Land Acquisition Act seeking higher compensation. The Sub Court, Thiruvallur had entertained the same in LAOP No.12 of 1989 etc., and on 28.04.1993, the learned Judge enhanced the compensation amount to Rs.700/- per cent.

3. It is the further case of the petitioner that the petitioners have made application on 16.07.1993 for re-determination of compensation under Section 28-A of the Act on the basis of the Judgment and Decree passed by the appellate court. However, no order was passed and therefore, 21 persons filed the writ petitions in WP.Nos.1517 to 1536 & 2209 of 1995 issued a direction to the 4th respondent therein to pass orders. This Court vide its order dated 04.04.1995, directed the 4th respondent therein to conduct enquiry and pass orders, after considering the facts regarding each of the applications



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filed by the said petitioners into three groups. Thereafter, 16 persons including the petitioner have filed writ petitions praying for directions directing the 4th respondent to pass orders in their applications filed for the re-determination of the compensation amount. On 06.09.2002, this Court was pleased to pass a common order observing that no relief can be granted to the petitioners therein. In the meanwhile, the State preferred an appeal against the award passed by LAOP cases before this Court in AS.No.559/2002. This Court, modified the award from Rs.700/- to Rs.600/- per cent. Thereafter, the petitioners made a representation for re-determination of compensation in terms of the judgment of this Court in A.S.No.559/2002 dated 18.02.2008 to the 4th respondent. The 4th respondent conducted a detail enquiry and file a report regarding entitlement before the first respondent for passing order. Thereafter, other batch of writ petitions in W.P.Nos.26310 to 26341 of 2008 filed before this Court directing the 4th respondent to re-determine the compensation amount payable in respect of the petitioners land. But no orders were passed. In such circumstances, the petitioners filed a contempt petition before this Court in Cont. Pet. Nos.911, 1220 to 1250 of 2009 against the 4th respondent praying for an order punishing him for his acts of non compliance of the order dated 25.03.2009. During the hearing of the contempt petitions, the 4th respondent submitted that the orders for re-



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determining the compensation under Section 28-A of the Act had to be passed only by the first respondent; that the first respondent had delegated the powers to the third respondent and that the third respondent had passed an order dated 31.08.2010 rejecting all the claims as bogus & not substantiated on the basis of the report dated 24.08.2010 submitted by the 4th respondent. On 01.11.2010, this court passed a common order directing the third respondent to pass orders taking note of the report of the 4th respondent dated 24.11.2008 and that the third respondent shall not reject the claims solely on the ground that the claims have been made beyond the period of limitation. Even thereafter, the orders were not passed and therefore, the contempt petition has been filed in Cont. Pet.No.1383 of 2011. This Court directed the third respondent to make the payments to the land owners. However, the second respondent, instead of making payments to the land holders, filed 32 appeals in LPASR No.29858 of 2012 etc praying for leave to file appeal against the common order dated 01.11.2010 passed in Contempt Petition Nos.911, 1220 to 1250 of 2009. During hearing, the second respondent took further time for making the payment. However, on 10.02.2014, this Court dismissed the appeal. But, the second respondent have not paid the re-determined compensation to the land holders and rejected the petitioner's representation dated 18.08.2014. Challenging the said



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rejection order, the petitioner herein has filed W.P.Nos.34309 to 34344 of 2014 before this Court to quash the same and direct the first respondent to disburse the re-determined compensation amount in respect of the lands to the petitioners/land holders, as computed by the third respondent.

4. On 18.11.2015 this Court was pleased to pass a common order in W.P.no.34309 to 34344 of 2014 directing the first respondent to consider the objection/letter dated 18.08.2014 filed by the second respondent, after hearing the petitioners as well as the second respondent and other officials. Pursuant to which, the first respondent passed the present impugned order dated 22.09.2016 rejecting the petitioner's application under Section 28-A of the Act and declared that no compensation is required to be paid to the petitioners/land holders by the second respondent. Without having no other option, the petitioners have filed the present writ petition before this Court.

5. The learned counsel for the petitioners submitted that the entire issue in the writ petition turns on a very narrow compass. The lower appellate Court has already passed an award on 28.04.1989 fixing a compensation of Rs.700/- per cent. Immediately thereafter, the petitioner made an application on 16.07.1993 before the District Collector under



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Section 28-A of the Land Acquisition Act for re-determination in terms of the award passed in the LAOP. In the meanwhile, the Housing Board preferred appeal against the award before this Court in AS.No.559 of 2002 and the same was allowed with modification on 27.11.2007 by this Court. Even thereafter, the first respondent has rejected the petitioners' claim for enhancement of compensation with certain reasons, which is unsustainable one and no compensation amount is paid to the petitioners so far. Hence, this Court may set aside the impugned order passed by the first respondent and allow this petition.

6. The learned Additional Government Pleader submitted that On 16.05.2011, the District Revenue Officer had confirmed that an applications made by the petitioners are well within the time and issued a direction to pay re-determined compensation in favour of the petitioners. However, subsequently, based on the order passed by this Court in W.P. No.34309 to 34344 of 2014 dated 18.11.2015, an enquiry was conducted between the petitioners and the Housing Board and passed the present impugned order, which cannot be interfere with and therefore, the present writ petition is liable to be dismissed.



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7. Heard the learned counsel for the petitioner as well as the learned counsel for the respondents and perused the materials available on record.

8. The facts in the present case are not in dispute. The notification and award passed by the respondents have also not in dispute. The only dispute arose in the present writ petition is whether the petitioner made application for re-determination of compensation in time or not. Admittedly, an award was passed in Award No.1 to 6 between 31.08.1987 to 09.01.1987. The Land Acquisition Officer fixed a compensation at Rs.100/- per cent. Against which, at the instance of the neighboring land owners, 18 reference was made and the lower appellate Court had fixed a compensation at Rs.700/-. The petitioners made representations under Section 28-A of the Act on 16.07.1993 for the payment of the compensation based on the judgment and decree passed by the lower appellate Court. However, the same was disputed by the first respondent and the said applications made by the petitioners is beyond the period of limitation prescribed under the Act. However, the fact remains that subsequently the State preferred appeal as against the award passed by the lower appellate Court before this Court in A.S.No.559/2002. This Court modified the award amount at Rs.600/- per cent. Based on which, the petitioners have made representations on 18.02.2008 for re-determining



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the compensation. However, the first respondent rejected the petitioners' representation stating that *the applications are incomplete and not submitted within the time frame prescribed in the Land Acquisition Act; and they did not produce the certified copy of the judgment in LAOP.*

9. This Court, in order to find out whether an application was made on 16.07.1993, directed the respondents to produce the entire original records before this court. On perusal of the entire records, it is seen that the xerox copy of the representation made by the petitioner is very much available in the file indicating the representation dated 16.07.1993 in terms of Section 28-A of the Act. Subsequently, the said award is modified on 27.11.2007. It is very clear that there is no delay on the part of the petitioners for making application under Section 28-A of the Act. In view of the above, the order passed by the first respondent, dated 22.09.2016 is liable to be quashed and the same is quashed. The earlier order passed by District Revenue Officer dated 16.05.2011 is perfectly in order and therefore, this Court directs the first respondent to disburse the compensation in terms of the award passed by this Court in AS.No.559 of 2002 dated 27.11.2007 to the petitioners within a period of twelve weeks from the date of receipt a copy of this order.



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WEB COPY 10. With the above terms, the present writ petition is allowed. No cost.

Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Speaking order : Yes / No
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Tamil Nadu Housing Board,
493, Anna Salai, Nandanam,
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