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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.33597, 33598 & 33599 of 2014  
and  
M.P.No.1 of 2014 (3 Nos.)

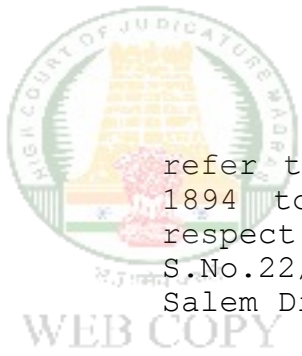
1. Andiappan  
2. Mariappan  
3. Karumalai  
4. Paramasivam  
5. Muthu ...Petitioners in W.P.No.33597 of 2014  
  
P.Ganesan ... Petitioner in W.P.No.33598 of 2014  
  
R.Subramani ...Petitioner in W.P.No.33599 of 2014

Vs.

1. The Special Tahsildar &  
Land Acquisition Officer,  
Salem-Karur Broad gauge Railway Line Project,  
Rajaram Nagar, Salem-7.  
  
2. The District Collector,  
Salem-636 001. ... Respondents in all W.Ps

Prayer in W.P.No.33597 of 2014: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the entire records of the 1<sup>st</sup> respondent relating to his impugned order in ROC No.1/2012 dated 09.10.2013, to quash the said order and to direct the respondents herein to refer the matter under Section 18 of the Land Acquisition Act, 1894 to the Civil Court for enhancement of compensation in respect of the petitioners' land measuring 0.01.5 sq.mts in S.No.30/6A2, 0.01.5 sq.mts in S.No.30/8A2, 0.01.5 sq.mts in S.No.30/9A2 in Amanikondalampatty Village, Salem Taluk and Salem District, forthwith.

Prayer in W.P.No.33598 of 2014: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the entire records of the 1<sup>st</sup> respondent relating to his impugned order in ROC 1/2012 dated 09.10.2013, to quash the said order and to direct the respondents herein to



refer the matter under Section 18 of the Land Acquisition Act, 1894 to the Civil Court for enhancement of compensation in respect of the petitioner's land measuring 72.72 sq.mts in S.No.22/14A2A2 in Amani Kondalampatty Village, Salem Taluk and Salem District, forthwith.

Prayer in W.P.No.33599 of 2014: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the entire records of the 1<sup>st</sup> respondent relating to his impugned order in ROC No.1/2012 dated 09.10.2013, to quash the said order and to direct the respondents herein to refer the matter under Section 18 of the Land Acquisition Act, 1894 to the Civil Court for enhancement of compensation in respect of the petitioner's land measuring 229 sq.mts in S.No.29/14A2, in Amani Kondalampatty Village, Salem Taluk and Salem District, forthwith.

For Petitioners : M/s.P.Jagadeesan  
(in all W.P.s)

For Respondents : Mr.V.Veluchamy, AGP  
(in all W.P.s)

#### C O M M O N O R D E R

As the issue involved in all the Writ petitions is one and the same, 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 1<sup>st</sup> respondent in ROC No.1 of 2012 dated 09.10.2013, quash the same and consequently direct the respondents to refer the matter for enhancement of compensation in respect of the petitioners' lands comprised in S.Nos.30/6A2, 30/8A2, 30/9A2, 22/14A2A2 and 29/14A2, measuring an extent of 01.01.5 sq.mts, 01.01.5 sq.mts, 01.01.5 sq.mts, 72.72 sq.mts and 229 sq.mts respectively, situated in Amani Kondalampatty Village, Salem Taluk and Salem District.

3. The case of the petitioners is that, the petitioners are the owners of the above said respective lands and the said lands were acquired by the 1<sup>st</sup> respondent for Salem-Karur Broad Gauge Railway Line Project Scheme, Salem and the notification under Section 4(1) of the Land Acquisition Act, 1894 (in short 'Act') was issued in G.O.Ms.No.27, Transport (II) Department, dated 29.03.2001, and the Declaration under Section 6 of the Act was notified in G.O.Ms.No.40, Transport (II) Department, dated 25.04.2001. The 1<sup>st</sup> respondent, after conducting enquiry had passed Award No.3 of 2002-03 dated 05.07.2002, fixing a meagre

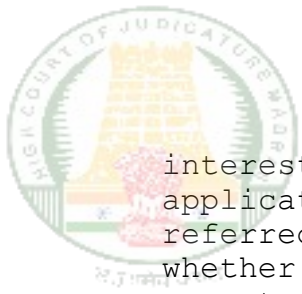


compensation for their lands. Thereafter, the petitioners appeared before the 1<sup>st</sup> respondent and received the amount under protest and submitted an application dated 22.07.2002, requesting to refer the matter under section 18 of the Act to the competent Civil Court, for enhancement of the compensation amount which was originally fixed. However, the 1<sup>st</sup> respondent has not taken any steps to refer the matter.

4. Therefore, the petitioners have sent a lawyer's notice dated 19.12.2006 to the respondents followed by notices dated 15.04.2010 and 07.02.2012, however, no orders have been passed on the same. Hence, the petitioners have filed a Writ Petition in W.P.No.20911 to 20913 of 2013 and this Court, vide a common order dated 31.07.2013 directed the 1<sup>st</sup> respondent to dispose of the petitioners' representation within a period of four weeks. Pursuant to the said order, the 1<sup>st</sup> respondent, instead of referring the matter to the competent Civil Court, has passed the impugned order dated 09.10.2013 in ROC 1/2012, on the ground that, no petition seeking for reference under Section 18 of the Act was received from the petitioners. Hence, challenging the said order, the present Writ petitions are filed.

5. Learned counsel for the petitioners submitted that, even the common order of this Court dated 31.07.2013 in W.P.Nos.20911 to 20913 of 2013 makes it clear that, the petitioners have made an application dated 22.07.2002 in person, requesting to refer the matter under Section 18 of the Act to the competent Civil Court for enhancement of compensation. He further submitted that, since the said application was not considered by the 1<sup>st</sup> respondent, the petitioners have sent lawyer's notice on 19.12.2006, 15.04.2010 and 07.02.2012, however, till date, no orders have been passed on the said application and the claim of the 1<sup>st</sup> respondent that no such application dated 22.07.2002 was received from the petitioners for referring the matter to the competent Civil Court under Section 18(2) of the Act, for enhancement of the compensation, is not sustainable. He furthermore submitted that, even a bare perusal of the counter affidavit filed by the respondents, makes it clear that the petitioners have received the compensation amount under protest and the said statement itself is sufficient to refer the matter under Section 18(2) of the Act, however, the 1<sup>st</sup> respondent has passed the impugned order, rejecting the petitioners' request for referring the matter, on the ground that no petition seeking reference under Section 18 of the Act, was made by the petitioners.

6. Learned Additional Government Pleader appearing on behalf of the respondents submits that, though the award was passed on 05.07.2002 and the same was received by the petitioner under protest, however as per Section 18 of the Act, Any person



interested, who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested, within a period of six weeks from the date of Collector's award. However, in the present case, though the petitioners claim that they have made an application dated 22.07.2002 before the 1<sup>st</sup> respondent for referring the matter to the competent Civil Court under Section 18 of the Act, for enhancement of the compensation, however, no proof has been submitted by the petitioners. It is the submission of the learned Additional Government Pleader that the representation submitted by the petitioners is beyond the period of limitation under Section 18 of the Act. Hence, he prayed for dismissal of these Writ petitions.

7. Heard the arguments advanced by the learned counsel on either side and perused the materials available on record.

8. Admittedly, the petitioners lands were acquired for the purpose of Salem-Karur Broad Gauge Railway Line Project Scheme, Salem and the Notification under Section 4(1) of the Act was issued on 29.03.2001 and the Declaration under Section 6 of the Act was notified on 25.04.2001 and the 1<sup>st</sup> respondent had passed Award No.3 of 2002-03 dated 05.07.2002. A perusal of the counter affidavit, reveals that the petitioners have received the compensation amount under protest. While such being the case, it is the duty of the Land Acquisition Officer to refer the matter under Section 18 of the Act to the competent Civil Court, for enhancement of the compensation. The relevant portion of the Section 18 of the Act is as follows:

"18. Reference to Court.

(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken: Provided that every such application shall be made,

(a) if the person making it was present or represented before the Collector at the time when



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he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire."

In the present case, the award was passed on 05.07.2002 and application for making a reference under section 18 of the Act was filed on 22.07.2002. Due to the rejection of the application, lawyer notice was sent on 19.12.2006 for fair compensation. Pursuant to the lawyer's notice, the petitioner pursued the matter till 2012. However, the respondents contend that they did not receive any application on 22.07.2002. It is to be pointed out that the petitioner appeared before the award enquiry and made protest and sought for reference under Section 18 of the Act, which was not considered favourably. It is pertinent to point out that the provision under section 18 of the Act has been provided only to benefit the land users, who are to be deprived of their lands to get fair compensation. Therefore, beneficial construction has to be made with regard to Section 18, which would stand to benefit the land users and the land users, like the petitioner cannot be made to suffer by rejecting the application for making a reference under Section 18 of the Act.

9. In the aforesaid backdrop, the act of the respondents in not referring the matter to the competent court under Section 18 of the Act is unreasonable and perverse and the same deserves to be interfered with. In view of the above provision of law, the impugned order dated 09.10.2013 passed by the 1<sup>st</sup> respondent in ROC 1/2012 is set aside and the 1<sup>st</sup> respondent is directed to refer the matter under Section 18 of the Act to the competent Civil Court for enhancement of the compensation within a period of six weeks from the date of receipt of a copy of this order.

10. Accordingly, these Writ Petitions are allowed. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Special Tahsildar &  
Land Acquisition Officer,  
Salem-Karur Broad gauge Railway Line Project,  
Rajaram Nagar, Salem-7.
2. The District Collector,  
Salem-636 001.

+3ccs to M/s.P.Jagadeesan, Advocate, S.R.No.19074,19075,19076  
+1cc to the Government Pleader, S.R.No.19898

W.P.Nos.33597, 33598 & 33599 of 2014 and  
MP.No.1 of 2014 (3 Nos.)

MT (CO)  
CT 26/04/2022