



W.P.(MD).No.12124 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.07.2022**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.12124 of 2012

and

M.P.(MD)No.1 of 2012

Cicily Koshy

... Petitioner

Vs.

1. The District Collector,
Ramanathapuram District,
Ramanathapuram.

2. The Revenue Divisional Officer,
Ramanathapuram

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the second respondent dated 06.01.2006 in his Na.Ka.A8-10417-05 communicated by order dated 17.07.2012 in his Na.Ka.A6/4498/2012 and quash the same and to direct the respondents to pay the enhanced compensation under Section 28-A of the Land Acquisition Act as per the application submitted by the petitioner on 10.08.2002.



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For Petitioner : Mr.K.Vadivelu

For Respondents : Mr.N.Muthuvijayan
Special Government Pleader

ORDER

The present writ petition has been filed challenging an order passed by the second respondent herein under which the request of the petitioner for grant of enhanced compensation as contemplated under Section 28-A of the Land Acquisition Act, 1894, was rejected.

2. According to the learned counsel for the petitioner, the lands were acquired, however, the petitioner has not challenged the quantum of compensation fixed by the acquisition authorities. However, the other land owners have challenged the same in L.A.O.P No.24 of 1988 on the file of Sub Court Ramanathapuram, at Madurai. An award was passed on 07.02.1989 fixing the compensation at Rs.1400/- per cent. This award was challenged by the acquisition authorities before the High Court in A.S.No.133 of 1991. The Honourable Division Bench of our High Court



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disposed of the same on 11.07.2002, reducing the compensation from Rs.1400/- to Rs.667/- per cent. As per Section 28-A of the Act, where an enhanced compensation is being paid to the other land owners under the same acquisition proceedings, the land owner who has not challenged the quantum of compensation, is entitled to approach the District Collector within a period of three months from the date of the award seeking the same quantum of compensation.

3. According to the learned counsel for the petitioner, within a period of 90 days, he made an application on 10.08.2002 to the second respondent herein. This was followed by a reminder dated 09.05.2005 to the first respondent herein. However, there was no response from the first respondent or second respondent. The petitioner was constrained to file W.P.(MD)No.10431 of 2010, seeking a Mandamus directing the respondents to pay enhanced compensation under Section 28-A of the Act, based on the application submitted by the petitioner on 10.08.2002. Pursuant to the said orders, the present impugned order has been passed by the second respondent herein on the ground that the representation of



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the petitioner has not reached the respondent within a period of three months from the date, on which, the judgment was passed in A.S.No.133 of 1991. The said order is under challenge.

4. Per contra, the learned Special Government Pleader for the respondents had submitted that there is no proof whatsoever to the effect that the petitioner had submitted an application on 10.08.2002 under Section 28-A of the Land Acquisition Act. In fact, the second respondent, by his proceedings, dated 10.05.2005 has called for the petitioner to produce a copy of the letter, dated 10.08.2002. Though the petitioner in the writ petition has contended that pursuant to the said letter, he has submitted a copy of the letter dated, 10.08.2002, there is no proof for the same. Hence, he prayed for sustaining the impugned order.

5. I have considered the submissions made on either side.

6. No doubt, the petitioner is entitled to an enhanced compensation as contemplated under Section 28-A of the Land



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Acquisition Act, provided the petitioner has submitted an application within a period of 90 days from the date of passing of the award. In the present case, the award has been passed by the Land Acquisition Tribunal on 07.02.1989 which was reversed by the High Court on 11.07.2002, fixing the compensation at Rs.667/-. The petitioner is entitled to approach the District Collector within a period of 90 days from 11.07.2002 onwards. Though the petitioner has pleaded that on 10.08.2002, he has submitted an application to the second respondent seeking enhanced compensation, there is no proof whatsoever except the pleadings. The impugned order clearly indicates that under the letter dated 10.05.2005, the second respondent herein has sought for a copy of the letter dated 10.08.2002. The impugned order also refers to the fact that no application has been received by the first respondent or the second respondent within a period of 90 days. When the application is not presented to the statutory authorities within the time frame fixed under the Act, this Court is not in a position to interfere in the impugned order. The learned Judge of this Court in an order in W.P.(MD).10431 of 2010, has only directed the authorities to consider the representation of



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the petitioner, dated 09.05.2005.

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7. In view of the above said fact, I do not find any illegality or infirmity in the order passed by the second respondent herein. The writ petition is devoid of merits and the same is liable to be dismissed.

8. With the above said observations, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

06.07.2022

Index : Yes / No
Internet : Yes / No
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To

1. The District Collector,
Ramanathapuram District,
Ramanathapuram.
2. The Revenue Divisional Officer,
Ramanathapuram



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R.VIJAYAKUMAR ,J.

jbr

Order made in
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06.07.2022