



W.P(MD)No.4812 of 2013

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2022

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.4812 of 2013

and

M.P(MD)No.3 of 2013

1.S.Selvamani

2.T.Kalaimani

3.R.Mahalakshmi

... Petitioners

Vs.

1.The Revenue Divisional Officer,
Aruppukkottai.

2.The Secretary to Government,
Revenue Department,
Fort St.George,
Chennai-600 009.

3.The District Collector,
Virudhunagar.

... 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 of the 2nd respondent issued in G.O.Ms.No.70 Revenue Department dated 30.01.2003, the clarification issued by the 2nd



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respondent in his letter No.558/LA 1(1)/05-2 dated 11.03.2005 and the proceedings of the 1st respondent Na.Ka.No.B2/S.R.9/05(28A) P.T.P dated 19.10.2012, quash the same and consequently direct the respondents to disburse the compensation amounts together with all the statutory benefits due to the petitioners forthwith as held by Supreme Court in 2001(7) SCC 211 and 2006 (8) SCC 457.

For Petitioners : Mr.A.Sivaji

For Respondents : Mr.M.Lingadurai
Special Government Pleader

ORDER

The present writ petition has been filed challenging an order passed by the 1st respondent herein, under which the 1st respondent has sought to recover the alleged excess compensation that has been paid to the writ petitioners under Section 28 of the Land Acquisition Act, 1894.

2. According to the learned counsel for the petitioners, the acquisition proceedings were completed and the petitioners had not sought for any reference under Section 18 of the Land Acquisition Act. Therefore, they have approached the respondent authorities for fixing the compensation under Section 28 of the Land Acquisition Act. The



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authorities have also fixed the compensation under Section 28 of the Land Acquisition Act and they have disbursed the said amount. The claimants/land owners have been continuously making representation to the respondent authorities that they have erroneously fixed the compensation, which is not in consonance with the Land Acquisition Act, 1894. The claimants/petitioners were demanding that additional amount has to be paid as compensation. The petitioners/claimants have given a representation to the 1st respondent herein for re-calculating the compensation amount and pay the balance amount. For the said representation, the 1st respondent has passed the impugned order stating that the already paid compensation is in excess of the amount that is due to the writ petitioners and he has sought to recover the excess amount from the writ petitioners under the impugned order. This order is under challenge in the present writ petition.

3. As rightly contended by the learned counsel for the petitioner, this order of recovery of the alleged excess amount has been passed without issuing any notice to the writ petitioner and the same is in violation of the principles of natural justice.



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4. In view of the above said facts, the order impugned in the writ petition is set aside and the matter is remitted back to the file of the 1st respondent herein. The 1st respondent shall give due opportunity to the writ petitioners before arriving at the correct quantum of compensation as contemplated under the various provisions of the Land Acquisition Act. After giving due opportunity to the writ petitioners, the 1st respondent shall pass a reasoned order, after considering the objections raised by the writ petitioners. The 1st respondent shall also consider the fact that whether any lesser amount has been paid to the writ petitioners. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

5. With the above said observations, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

25.11.2022

Index : Yes / No
Internet : Yes / No
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R.VIJAYAKUMAR ,J.

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Order made in
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