



W.P.No.10207 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.10207 of 2021

Elumalai (died)

1. E.Anbu

2. M.Lakshmi

3. J.Padmavathy

4. E.Ramachandran

.. Petitioner

VS

1. The Managing Director

State Industries Promotion Corporation of Tamil Nadu Ltd.

(SIPCOT), No.19-A, Rukmani Lakshmipathy Road

Egmore, Chennai – 600 008.

2. The Special Tahsildar

SIPCOT Unit, Sriperumbudur Taluk

Kancheepuram District.

.. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents herein to deposit the entire compensation amount as per the judgment and decree passed by this Hon'ble Court in A.S.Nos.67 to 70, 80 to 110 of 2011, 144, 146 to 163 of 2011 by order dated 11.10.2013 and as per the subsequent direction of this Hon'ble Court made in Review Application Nos.89 to 142 of 2018 dated 27.01.2020 and as per the orders of the Hon'ble Supreme Court in S.L.P. (Civil) Diary No.21499 of 2020 dated 23.11.2020.



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For Petitioner : Mr.G.Karthikeyan
Senior Counsel
for Ms.A.Jagadeeswari

For Respondents : Mrs.N.Senthil Selvi
Government Advocate
for respondent 2

Ms.A.Suganya
Standing Counsel
for respondent 1

ORDER

The prayer sought for herein is for a Writ of Mandamus, directing the respondents herein to deposit the entire compensation amount as per the judgment and decree passed by this Court in A.S.Nos.67 to 70, 80 to 110 of 2011, 144, 146 to 163 of 2011 by order dated 11.10.2013 and as per the subsequent direction of this Court made in Review Application Nos.89 to 142 of 2018 dated 27.01.2020 and as per the orders of the Hon'ble Supreme Court in S.L.P. (Civil) Diary No.21499 of 2020 dated 23.11.2020.

2. The essential facts, which are to be noted for the disposal of this writ petition are as follows:

(i) That the petitioners are the legal heirs of Elumalai S/o Subramaniam Naicker. He purchased the land and property at Survey No.315/1A to the extend of



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0.32 acres and at Survey No.315/1B to the extent of 0.33 acres under the registered sale deed dated 09.07.1986.

(ii) Subsequently, the said Elumalai S/o Subramaniam Naicker along with his wife Bakkiyam sold the property in Survey No.315/1A, measuring to the extent of 0.32 acres to one Poornima Gowtham under the sale deed dated 25.08.1988, in which, the Elumalai S/o Subramaniam Naicker has signed the document.

(iii) Therefore, the property at Survey No.315/1A has been sold by the said Elumalai S/o Subramaniam Naicker. The remaining property i.e. at Survey No.315/1B, measuring to the extend of 0.13.5 hectares in equivalent to 0.33 acres at Thirumangalam Village, Sriperumbudur Taluk.

(iv) Subsequently, for the purpose of the first respondent, the second respondent acquired the said property of Elumalai S/o Subramaniam Naicker at Survey No.315/1B by issuance of 4(1) notification.

(v) Thereafter, the compensation has been awarded and after receiving the said amount, the said Elumalai S/o Subramaniam Naicker wanted to refer the



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matter before the concerned Court under Section 18 of the Land Acquisition Act, 1894, seeking for enhancement of compensation.

(vi) At the request of the said Elumalai S/o Subramaniam Naicker, the case has been referred under Section 18 of the Act. Therefore it has been numbered as L.A.O.P.No.256 of 2005 on the file of the Sub-Court, Thiruvallur, from where, it has been subsequently transferred to the Additional District Court / Fast Track Court No.V, Chengalpattu at Thiruvallur and the same was disposed on merits along with 125 cases, totaling to 126 cases in a batch on 14.11.2007.

(vii) Aggrieved over the said order passed by the Court in the said L.A.O.P, including the L.A.O.P.No.256 of 2005, the second respondent preferred an appeal in A.S.No.109 of 2011 to this Court, where, A.S.No.109 of 2011, along with connected appeal suits for 126 cases were heard and disposed of by this Court by way of a common judgment dated 11.10.2013, whereby, this Court has enhanced the compensation amount from Rs.3,500/- to Rs.10,465/-.

(viii) Aggrieved over the said common order passed by this Court enhancing the compensation, the respondents preferred Special Leave Petition in the Hon'ble



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Supreme Court of India and the same also was dismissed on 03.11.2017, of course, with the liberty to the petitioner, who filed Special Leave Petition, to file a review petition before this Court.

(ix) Accordingly, the first respondent had filed review petition in R.P.No.122 of 2018 and that was also dismissed along with other connected review petitions by common judgment dated 27.01.2020. However, the Division Bench, while disposing the revision petition has made some correction in the arithmetic error which was cleared by the Division Bench in the said revision petition and arrived at an amount as not Rs.10,465/-, but as Rs.10,224/- only. Therefore, in order to get that enhanced compensation, the petitioners have filed the execution petition in E.P.No.3 of 2017 before the VI Assistant City Civil Court at Chennai, where, counter affidavit has been filed by the respondent and for the first time, made a shocking revelation that already another L.A.O.P has been referred in the name of Elumalai S/o Munusamy Naicker and in whose favour, the compensation already been paid in L.A.O.P.No.1183 of 2008. Therefore, Elumalai S/o Subramaniam Naicker is not entitled to get the enhanced compensation. Only at that juncture, the present writ petition has been filed by the legal heirs of Elumalai S/o Subramaniam Naicker with the aforesaid prayer.



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WEB COPY 3. Reiterating the aforesaid facts, Mr.G.Karthikeyan, learned Senior Counsel appearing for the petitioner would contend that, insofar as the land acquired is concerned, the Survey No.315/1B, for which the owner was Elumalai S/o Subramaniam Naicker, from whom only, the land has been acquired and in respect of the said land alone, reference has been made by way of L.A.O.P, which has been numbered as L.A.O.P.No.256 of 2005, which has been hotly contested by the respondents before the Sub-Court, specifically the Fast Track Court and a judgment was made on 14.11.2007, against which, an appeal was filed in A.S.No.109 of 2011, which was also disposed on 11.10.2013, enhancing the compensation. As against which, Special Leave Petition was unsuccessfully filed, of course, with the liberty to file a review petition. When they filed a review petition, there was a small modification in the amount arriving from Rs.10,465/- to Rs.10,224/-.

4. Therefore, throughout, Elumalai S/o Subramaniam Naicker traveled with L.A.O.P.No.256 of 2005, A.S.No.109 of 2011 and subsequently the legal heirs filed E.P.No.3 of 2017. When that was filed, this information was given as if there had been another L.A.O.P in L.A.O.P.No.1183 of 2008, of course in the name of



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Elumalai S/o Munusamy Naicker in whose favour, the compensation, payable for the land acquired i.e, Survey No.315/1B, has been paid.

5. Hence, the learned Senior Counsel appearing for the petitioner would seek indulgence of this Court to pass necessary orders in this writ petition because, the petitioners are the legal heirs of Elumalai S/o Subramaniam Naicker, who was the original owner and in whose name all these proceedings went on, including the three tier Court proceedings as stated *supra*. When that being so, the mistake committed by the respondents by giving compensation to any other person with the same name but different father name would not in any way preclude the rights of the petitioner for getting the enhanced compensation from the respondents, the learned Senior Counsel contended.

6. I have heard Mrs.N.Senthil Selvi, learned Government Advocate appearing for the respondent 2 and Ms.A.Suganya learned Standing Counsel appearing for the respondent 1.

7. Learned Government Advocate and the learned Standing Counsel would contend that, Elumalai S/o Munusamy Naicker, in fact, wrote a letter to the first



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respondent claiming that he was the owner of Survey No.315/1B and therefore, that relates to L.A.O.P.No.1183 of 2008. When that being so, an award passed in L.A.O.P.No.1183 of 2008 shall denote only Elumalai S/o Munusamy Naicker pertaining to Survey No.315/1B and based on which, since he claims enhanced compensation, which has been paid to him. Hence, the petitioners on behalf of Elumalai S/o Subramaniam Naicker are not entitled to get compensation.

8. I have considered the said submissions made by learned counsel appearing for both sides and have perused the materials placed before this Court.

9. It is the mistake committed by the respondents as the second respondent / Special Tahsildar, who is the acquiring authority should have verified the documents made or claimed by Elumalai S/o Munusamy Naicker as to how he became the owner of the property viz., Survey No.315/1B.

10. If already Survey No.315/1B has been acquired from Elumalai S/o Subramaniam Naicker, the L.A.O.P.No.256 of 2008, at the request of Elumalai S/o Subramaniam Naicker, has also been made and that was contested and after contest, which was ordered by the Court concerned. As against which,



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unnecessarily, appeal has been filed by the respondent Department, where, enhancement of compensation has been arrived, which was in fact confirmed by the Hon'ble Supreme Court, of course with the liberty to file a review. In that attempt also, the respondents could not succeed, except minor correction made as Rs.10,224/- instead of Rs.10,465/-.

11. Therefore, a clear track of legal battle has been completed which ended as stated *supra*.

12. When that being so, when the second L.A.O.P as has been referred as L.A.O.P.No.1183/2008, was filed was not known. In this context, some light has been thrown by the learned Senior Counsel that, the said Elumalai S/o Munuswamy Naicker owns land in Survey No.315/4B measuring 0.22.5 hectares and the case was referred under Section 18 and numbered as L.A.O.P.No.1182 of 2008. When that being so, by mistake, another L.A.O.P in L.A.O.P.No.1183 of 2008 also has been made as if that the said Elumalai S/o Munuswamy Naicker is the owner of the property in Survey No.315/1B.



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13. This mistake could have been avoided if proper verification had been undertaken by the respondents.

14. Merely because the said Elumalai S/o Munuswamy Naicker has written a letter to the first respondent claiming compensation payable to the owner of the property in respect of Survey No.315/1B, that compensation ought not to have been dispersed to and in favour of the said Elumalai S/o Munuswamy Naicker without verifying the records.

15. The action on the part of the respondents is nothing but nullifying the order passed by the Sub-Court or Fast Track Court, confirmed by this Court and further confirmed by the Hon'ble Supreme Court in the track of cases starting from L.A.O.P.No.256 of 2005 in respect of the Survey No.315/1B, belonging to Elumalai S/o Subramaniam Naicker, whose legal heirs are the petitioners before this Court. Therefore, analyzing these factors, this Court has no hesitation to hold that the mistake committed by the respondents or any other person at any time would not take away or abrogate the right of the petitioners to claim compensation for the land belonging to them ie., the land of Elumalai S/o Subramaniam Naicker and therefore, they are entitled to get enhanced compensation that has been



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ordered by this Court in the judgment referred to above.

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16. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

That there shall be a direction to the respondents to take up the plea of the petitioners and to calculate the enhanced compensation payable to Elumalai S/o Subramaniam Naicker, on whose behalf, to the petitioners in respect of the land in Survey No.315/1B measuring 0.33 Acres at the rate of Rs.10,224/- per cent along with other solatium, interest and interest on solatium and the interest with the enhanced amount from the date of due till the date of payment and accordingly, the said payment shall be made by the respondents directly to the petitioners within a period of six weeks from the date of receipt of a copy of this order.

17. With these directions, the writ petition is disposed of. There will be no order as to costs.

Index: Yes/No
Neutral Citation :Yes/No
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- To
1. The Managing Director
State Industries Promotion Corporation of Tamil Nadu Ltd.
(SIPCOT), No.19-A, Rukmani Lakshmipathy Road
Egmore, Chennai – 600 008.
 2. The Special Tahsildar
SIPCOT Unit, Sriperumbudur Taluk
Kancheepuram District.



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R. SURESH KUMAR, J.

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