



Rev.Appln.No.249/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

<i>Reserved on 0112.01.2023</i>	<i>Delivered on 12.01.2023</i>
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CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

and

THE HONOURABLE MRS. JUSTICE N.MALA

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1.Chinthamani Ammal [died]

2.S.Sivasubramaniam [died]

3.S.Surendran

[2nd petitioner / 64th respondent who was impleaded as LR of 1st petitioner/2nd respondent as per order dated 28.07.2003 in CMP.No.15875 to 15877/2003, 2nd petitioner/64th respondent died pending SLP before the Hon'ble Supreme Court, his only LR, 3rd petitioner/65th respondent was recoded as LR before the Hon'ble Supreme Court]

4.Janaki Ammal [died]

5.M.Periasamy [died]

[Impleaded as petitioner in SLP as LR of one the LR of Janaki Ammal. He died on 04.06.2013, petitioners 6 to 8 herein are recorded as LR of M.Periyasamy before the Hon'ble Supreme Court of India]

6.P.Vijayalakshmi

7.P.Jayakumar

8.Mrs.V.Chandrakala

.. Review

Applicants



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[LR of 4th petitioner/3rd respondent namely petitioners 5 to 8 herein were brought on record before the Hon'ble Supreme Court of India]

Versus

1.The Revenue Divisional Officer
Erode District, Erode.

- 2.Athappa Gounder [died]
- 3.Dhanalakshmi Ammal
- 4.Chellappa Gounder [died]
- 5.K.M.Karuppana Gounder
- 6.S.Palani Gounder
- 7.Subramaniam [died]
- 8.Muthusamy
- 9.RR-Chellapa Gounder[died]
- 10.RR-Indirani Ammal
- 11.RR-Rajammal
- 12.Palaniappan
- 13.Chengkottaian
- 14.Ramasamy
- 15.Chenniappa Gounder [died]
- 16.Maharaja Mudaliar
- 17.Govindan
- 18.Ponnusamy [died]
- 19.Madhava Panicker
- 20.Pathamuthu Beebi [died]
- 21.Palanisamy
- 22.Nallamuthu
- 23.Nallasamy Pillai
- 24.Arasappa Pillai [died]
- 25.Manickam Chettiar
- 26.Rajammal



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27.Palaniappan

28.Kuppusamy

29.K.P,Kumarasamy

30.Subramaniam

31.K.P.Venkitusamy

32.Kaaruppanna Gounder

33.A.Rangasamy

34.Krishnasamy [died]

35.K.Manoharan

36.K.Bhaskaran

[RR35 & 36 recorded as LR of deceased Krishnasamy 34th respondent / 35th respondent in AS.No.594/1991 as per order of Court dated 28.07.2003 made in CMP.No.5713/2003]

37.Bhuvaneswari

38.Manickasundram

39.K.R.P.Viswanathan

[R39 herein impleaded as party respondent in AS.No.594/1991 as respondent as R40 as per order of Court dated 12.10.1995 made in CMP.No.12244/1995]

40.The Executive Engineer
and Administrative Officer
Erode Housing Unit,
Tamil Nadu Housing Board
Erode.

[R40 impleaded as party respondent in AS.No.594/1991 as respondent as R41 as per order of Court dated 05.03.2002 made in CMP.No.5023/2001]

41.C.Sridharan

42.C.Sridharan

[R41-brought on record as LR of deceased 9th respondent/10th respondent as R42 in AS.No.594/1991 ; R42 brought on record as LR of deceased 7th respondent/8th respondent as R43 in AS.No.594/1991 as per order dated 26.03.2003 in CMP.Nos.18268, 18269/2002]

43.S.Natarajan

[R43 brought on record as LR of the deceased 9th respondent / 10th



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respondent as R44 in AS.NO.594/1991 in CMP.Nos.32 to 34/2003 by order dated 28.07.2003]

44.P.Mathiyazhagan

[R44 brought on record as LR of the deceased 18th respondent / 19th respondent as R45 in AS.NO.594/1991 in CMP.Nos.35 to 37/2003 by order dated 28.07.2003]

45.S.Lakshmi

46.A.Kulandaisamy

47.S.Nagarajan

[RR 45 to 47 brought on record as LR of the deceased 15th respondent / 16th respondent as RR 46 to 48 in AS.NO.594/1991 in CMP.Nos.2127 to 2129/2003 by order dated 28.07.2003]

48.Duraisamy

49.Karuppayammal

[RR 48 and 49 brought on record as LR of the deceased 2nd respondent / 1st respondent as RR 49 and 50 in AS.NO.594/1991 in CMP.Nos.15887 to 15889/2003 by order dated 28.07.2003]

50.Ponnammal

51.Gopalakrishnan

52.Jothi Pushpa

53.Dhanalakshmi

54.Suseela

[RR 50 to 54 brought on record as LR of the deceased 7th respondent / 8th respondent as RR 51 to 55 in AS.NO.594/1991 in CMP.Nos.15890 to 15892/2003 by order dated 28.07.2003]

55.Kannammal

56.Shanmugavalli

57.Saraswathi

58.Thangammal

[RR 55 to 58 brought on record as LR of the deceased 24th respondent / 25th respondent as RR 56 to 59 in AS.NO.594/1991 in CMP.Nos.15893 to 15895/2003 by order dated 28.07.2003]

59.B.Noorul Yehzan

60.B.Syed Rabia Beedbi



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61.Anwar Ali

62.Asraf Ali

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Respondents

[RR 59 to 62 brought on record as LR of the deceased 20th respondent / 21th respondent as RR 60 to 63 in AS.NO.594/1991 in CMP.Nos.15893 to 15895/2003 by order dated 28.07.2003]

Prayer:- Review Application filed under Section 114 CPC read with Order XLVII Rule 1 of CPC against the judgment and decree passed in AS.No.594/1991 on the file of this Court dated 28.07.2003.

For Petitioner : Mr.P.H.Arvinth Pandian
Senior Counsel for
Mrs.P.T.Ramadevi

For R1 : Mr.T.Chandrasekar
Special Government Pleader

ORDER

S.S.SUNDAR, J.,

- (1) This review application is filed by the legal heirs of one of the claimants in LAOP.No.14/1984 on the file of the Sub Court, Erode.
- (2) Brief facts that are necessary for the disposal of this Review



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Application are as follows:

- (3) A vast extent of lands in Erode and Soorampatty Villages of Erode Taluk were acquired for the construction of houses under the Low Income Group and Middle Income Group Schemes and also for construction of the office of the District Collector as well as District Court Building. A Notification under Section 4[1] of the Land Acquisition Act, 1894, was issued vide G.O.Ms..No.136, Housing Department, dated 27.02.1973 and the same was published in the Government Gazette dated 14.03.1973. An extent of 1.26.5 Hectares equivalent to 3.13 acres of lands comprised in S.No.409/12 and several sub-divisions in S.No.412 which are the subject matter of LAOP.No.14/1984 on the file of the Sub Court, Erode, was acquired from the holdings of a few land owners who are claimants in LAOP.No.14/1984 Smt.Chinthamani Ammal and Tmt.Janaki Ammal are also the claimants in LAOP No.14 of 1984. Petitioners 2 and 3 are the legal heirs of Smt.Chinthamani Ammal who died pending proceedings. Tmt.Janaki Ammal also died and 5th petitioner was



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brought on record as her legal representative and other petitioners are brought on record as legal representatives of deceased 5th petitioner. 3rd petitioner who is already on record is the legal representative of 2nd petitioner.

- (4) The Land Acquisition Officer/Revenue Divisional Officer, Erode, passed an Award with reference to lands which are the subject matter of LAOP.14/1984 vide Award No.1/1990 dated 29.02.1990. The Land Acquisition Officer, determined the market value of the lands at Rs.2 per square feet. However, after deducting 20% towards development charges, determined the compensation payable to the land owners by taking into account, the value for land at Rs.1.35p., per square feet. It is revealed from the proceedings and records that land owners have objected to the quantum immediately after the Award and sought for reference under Section 18 of the Land Acquisition Act. It is to be seen that the Land Acquisition Officer, at the time of passing Award, was unable to determine the amount to which individual claimants are entitled to. Though several claimants



have submitted their representations claiming compensation at high rates with reference to specific extent and no rival claim is noticed by the Land Acquisition Officer, the Land Acquisition Officer recorded that the compensation could not be apportioned and hence, deposited in Court under Section 30 of the Land Acquisition Act.

- (5) It is to be seen that the Award does not indicate proper assessment of individual holdings of registered land owners in accordance with their title or enjoyment. The Award was passed in respect of a few parcels of lands including the lands which are the subject matter of LAOP.No.14 of 1984. In the present Review Application, the petitioners are concerned about the lands belong to Smt.Chinthamani Ammal and Janaki Ammal which are also the subject matter of proceedings in LAOP.No.14/1984.
- (6) In view of the position that the Land Acquisition Officer did not go into the holdings as per documents of Title Deed and the correlation with reference to old survey fields, this Court finds that the Award was passed by showing every land owner whose name is found



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included in the revenue records.

- (7) As pointed out earlier, the Land Acquisition Officer fixed the compensation at Rs.1.35p., per square feet after recording the fact that the acquired lands are developed as house sites. It is pertinent to mention that several land owners who are interested in lands acquired, filed petitions seeking reference under Section 18 of the Land Acquisition Act. The files produced before this Court would show several such applications were filed by individual land owners with reference to several survey fields. The Land Acquisition Officer however failed to refer the cases under Section 18 of the Land Acquisition Act. Therefore, the claimants have filed applications before the Reference Court for conversion of the reference as one under Section 18 of the Land Acquisition Act. In view of the fact that the Land Acquisition Officer failed to refer the matter under Section 18 of the Act, the Reference Court converted the reference as one under Section 18 of the Land Acquisition Act. Based on the specific order LAOP.No.14/1984 was also taken on file as a reference under



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Section 18 of the Act.

- (8) The Reference Court clubbed LAOP.Nos.13/1984, 14/1984 and 16/1984 and passed a common judgment. Relying upon the evidence of claimants and the documents filed by the claimants under Exs.C1 to C19 and the documents filed by the Land Acquisition Officer under Exs.R1 to R10, the Reference Court enhanced the compensation by fixing the market value from Rs.1.35p., per square feet to Rs.7/- per square feet. The Reference Court relied upon several documents filed by claimants and the toposketch and other Sale Deeds marked by the Land Acquisition Officer. Aggrieved by the judgment and decree of the Reference Court in LAOP.Nos.13,14 and 16/1984, the Land Acquisition Office filed AS.Nos.593 to 595/1991 before this Court.
- (9) Before the Division Bench of this Court, the main argument advanced on behalf of the Land Acquisition Officer was that the Reference Court has exceeded its jurisdiction by treating the reference under Section 30 of the Act as one under Section 18 of the Act and enhanced the compensation. It was also submitted by the then



learned Additional Advocate General before the Division Bench that the claimants cannot claim enhancement of compensation without seeking reference under Section 18 and submitted that the claimants did not give any request in writing for enhancement as required under Section 18 of the Act.

- (10) It is in the background of objections raised by the Land Acquisition Officer as to the jurisdiction of the Sub Court to convert a reference under Section 30 into one under Section 18 of the Act, ignoring the fact that the claimants had actually sought for reference under Section 18 of the Land Acquisition Act as per records, the Division Bench allowed the appeals and set aside the judgment and decree of the Reference Court in LAOP Nos.13, 14 and 16/1984.
- (11) In AS.Nos.593 and 594/1991, one Chinthamani Ammal and Janaki Ammal were shown as respondents 2 and 3. Chinthamani Ammal / 2nd respondent in both the appeals, died during pendency of appeals. However, in AS.NO.594/1991, the legal representatives of the 2nd respondent/Chinthamani Ammal, were impleaded as respondents 64



and 65 in the Appeal. Aggrieved by the judgment and decree in AS.No.594/1991, petitioners 2, 3 and 5 preferred a Special Leave Petition before the Hon'ble Supreme Court in SLP.No.26849/2004. Some of the other respondents in AS.No.594/1991 namely Thiru.Karuppana Gounder and others filed Review Application Nos.40 to 42/2007 challenging the judgment and decree in AS.Nos.593 to 595/1991.

(12) The legal representatives of Smt.Chinthamani Ammal who are petitioners 2 and 3 herein, were also impleaded as respondents 29 and 30 in the Review Applications. The Review Applications were ultimately heard and disposed of by a Division Bench of this Court on 29.07.2013. In the Review Applications by 14 of the claimants who are also the respondents in the above three Appeal Suits, this Court recalled the common judgment dated 28.07.2003 in AS.Nos.593 to 595/1991 and confirmed the judgment of the Reference Court in LAOP.Nos.13, 14 and 16/1984.

(13) It is pertinent to mention that the Division Bench in the above Review



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Applications filed by some of the claimants who are claimants in LAOP.Nos.13, 14 and 16/1984, pointed that the application for reference was pending before the Land Acquisition Officer and that the Land Acquisition Officer had ignored the claim of claimants/land owners and therefore, the claimants were compelled to file petitions before the Reference Court for amending reference and therefore, the Reference Court was justified in allowing the applications and considering the reference as one under Section 18 of the Act to determine the just compensation. Pointing out that orders passed in the Amendment applications had become final, the Division Bench found that the judgment and decree in the Appeals setting aside the order of the Reference Court is liable to be reviewed by exercising power under Order 47 Rule 1 of CPC.

(14) The Division Bench has specifically held as follows:-

"16.When the appeals A.S.Nos.593 to 595 of 1991 were heard, we have referred to only the Award No.1 of 1980 passed by the Land Acquisition Officer. Statement of some of the



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Claimants/Land owners giving their objections in writing were not produced before us at that time. Therefore, earlier, we proceeded under the footing that amendment of the Reference from under Section 30 as that of Reference under Section 18 was without basis and the Court held that such an amendment is without jurisdiction. As pointed out earlier, the Review Petitioners/Claimants have consistently insisted the Land Acquisition Officer to refer the Award under Section 18 of the Act for claiming enhanced rate of compensation and therefore, we are of the view that the finding recorded by the Division Bench in A.S.Nos.593 to 595 of 1991 that the decree of awarding higher compensation is beyond the jurisdiction of the Civil Court is to be reviewed.

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19. *As held by the Hon'ble Supreme Court in **Bhag Singh v. UT of Chandigarh [(1985) 3 SCC 737]**, it must be remembered that this was not a*



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dispute between two private citizens where it would be quite just and legitimate to confine the Claimant to the claim made by him and not to award him any higher amount than that claimed though even in such a case there may be situations where an amount higher than that claimed can be awarded to the claimant as for instance where an amount is claimed as due at the foot of an account. To deny the benefit to the Review Petitioners/Claimants would tantamount to permitting the State Government to acquire the land of the Review Petitioners/Claimants on payment of less than the true market value. When the Land Acquisition Officer has committed a mistake making the Reference under Section 30 which was later rectified by the Reference Court by allowing amendment, it would not fair and just to deprive the Review Petitioners' market value as the compensation. If the judgment is not reviewed and recalled, the Review Petitioners/Claimants and other land owners, who lost their land by acquisition in the year 1980 and yet to receive the compensation



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awarded by the Reference Court would be subjected to great hardship. Therefore, we are of the view that the common judgment in A.S.Nos.593 to 595 of 1991 dated 28.7.2013 suffers from error which needs to be reviewed and that the Review Applications are liable to be allowed.

20. In the result, all the Review Applications are allowed. The common judgment dated 28.7.2003 in A.S.Nos.593 to 595 of 1991 is reviewed and ordered to be recalled. The judgment passed by the Reference Court in L.A.O.P.Nos.13, 14 and 16 of 1984 is confirmed. The Review petitioners/claimants are also entitled to solatium at the rate of 30% as awarded by the Reference Court. Review petitioners/claimants are also entitled to interest on the said solatium. For the interest on solatium, which is now ordered by us in the Review Applications, the court fee if any payable by the review petitioners/claimants are payable by the review petitioners/claimants. Six weeks time is granted for paying the court fee payable



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on the interest on the solatium till the filing of the appeal."

- (15) From the nature of the order passed by this Court in the Review Applications, it is seen that the earlier judgment of the Division Bench dated 28.07.2003 in AS.No.593 to 595/1991 was recalled. The common judgment of the Reference Court in LAOP.Nos.13, 14 and 16/1984 was confirmed. It is pertinent to mention that the judgment of the Division Bench dated 29.07.2013 in the Review Applications is not confined to the review applications alone as seen from the operative portion of the judgment in paragraph No.20.
- (16) The Special Leave Petition in SLP.[C] No.26849/2004 filed by the Legal Representatives of the respondents 2 and 3 in AS.No.594/1991 was disposed of by the Hon'ble Supreme Court on 01.07.2015 in the following lines:-

"Mr.R.Venkataramani, learned Senior counsel for the petitioners, on instructions, seeks permission of this Court to withdraw the Special Leave Petition with liberty to file an appropriate Review Application/Petition before the High Court within thirty



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days from today.

Permission sought for is granted. Accordingly, the Special Leave Petition is disposed of as withdrawn with liberty to the petitioners to file an appropriate Review Application/Petition before the High Court within thirty days from today.

If such a Review Application/Petition is filed before the High Court within the time granted, we request the High Court to dispose of the Review Application/Petition on merits. Keeping in view the order passed in review Application Nos.40 to 42 of 2007 dated 29.07.2013 without reference to the period of limitation."

- (17) Based on the judgment of the Hon'ble Supreme Court dated 01.07.2015, the petitioners before the Hon'ble Supreme Court who are the legal heirs of the deceased respondents 2 and 3 in AS.No.594/1991 have filed the present Review Application.
- (18) This Court on first principle, finds that the Review Application is only a formal application in view of liberty given by Hon'ble Supreme Court, as the relief granted by this Court by order dated 29.07.2013



itself is in favour of the review petitioners herein as the order in the earlier Review Applications in Rev.Appln.Nos.40 to 42 of 2007 is not confined to the petitioners therein as the judgment as a whole in AS.Nos.593 to 595/1991 dated 28.07.2003 was recalled and the common judgment passed by the Reference Court in LAOP.Nos.13, 14 and 16 of 1984 was confirmed. However, this Court also considered the Review Application on merits. This Court is of the view that the problem was created for all claimants who are entitled to compensation for their lands because of the fact that the Land Acquisition Officer failed to conduct the proceedings in accordance with law.

- (19) The Land Acquisition Officer failed to consider the claims before him on the basis of the documents of Title Deed or the holdings of individual land owners. It appears that the Land Acquisition Officer proceeded to fix compensation for several parcels of lands. Having conducted the enquiry in that fashion, the Land Acquisition Officer clubbed the lands while awarding compensation. When the claimants



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are grouped, in such a manner without any decision as to the entitlement of claimants, the proceedings in LAOP.Nos.13, 14 and 16 of 1984 should be considered with reference to claimants as arrayed and the judgment and decree in LAOPs cannot be different for different claimants as the subject matter of LAOPs cannot be split. In view of the previous order in Rev.Appln.Nos.40 to 42 of 2007, this Court has no hesitation to hold that the petitioners in review applications are entitled to succeed and the Review Application of the petitioners is, therefore, **allowed**. As a result the judgment and decree in A.S.No.594 of 1991 dated 28.07.2003 is recalled and the judgment and decree in LAOP.No.14 of 1984 on the file of Sub Court, Erode in so far as review petitioners who are the legal representatives of Tmt.Chinthamani Ammal and Tmt.Janaki Ammal are confirmed. No costs.

[S.S.S.R., J.] [N.M., J.]
12.01.2023

AP
Internet : Yes



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To

1.The Revenue Divisional Officer
Erode District, Erode.

2.The Executive Engineer
and Administrative Officer
Erode Housing Unit,
Tamil Nadu Housing Board
Erode.

3.The Section Officer
VR Section, High Court
Madras.



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S.S.SUNDAR, J.,
and
N.MALA, J.,

AP

Order in
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