



W.P.(MD)No.20781 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 16.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.20781 of 2021

Suvi Gnana Dheepam

... Petitioner

Vs.

1.The Commissioner of Land Acquisition,
Chennai.

2.The District Collector,
Tirunelveli District,
Tirunelveli.

3.Special Thasildar (Land Acquisition),
River Link Project (Unit 3),
Paliankottai,
Tirunelveli District.

...Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the Respondents herein to re-determine the compensation by following Section 26 and 30(3) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in letter and spirit within the time frame fixed by this Court.

For Petitioner	: Ms.Porkodi Karnan
For R1 to R3	: Mr.K.S.Selvaganesan
	Additional Government Pleader



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ORDER

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This writ petition has been filed for the issue of writ of mandamus directing the respondents in particular, the third respondent to redetermine the compensation based on the representation made by the petitioner dated 11.11.2021.

2.The lands belonging to the petitioner were taken possession in the year 2010 for river linking project and she was not paid compensation. Hence, the petitioner approached this Court by way of writ petition in W.P.(MD)No. 24966 of 2018 and that writ petition was disposed of by this Court on 02.01.2019 directing the third respondent to pay the compensation to the petitioner in terms of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act (Central Act 30 of 2013) within a period of four months from the date of receipt of a copy of that order. Aggrieved over the above order, the respondents filed an appeal in W.A. (MD)No.1348 of 2019. The Division Bench of this Court dismissed the appeal by order dated 27.11.2019 and confirmed the order passed by the learned Single Judge. The Division Bench further granted one year time to the respondents to compute the compensation and pay the same to the petitioner.



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3.The respondents filed a review application in Rev.Aplw.(MD)No. 122 of 2019 seeking to review the earlier order passed in the writ petition dated 02.01.2019. This review application was also dismissed by order dated 11.11.2019 and the relevant partitions of the order are extracted hereunder:

4.The learned Additional Advocate General is right in her contention that the process from the date of notification till the date of determination of the compensation will take about one year. But then, this is applicable only in the case of a new acquisition. In this case, the land in question had already been taken possession. Therefore, the question of issuing any notification and inviting objections will not arise. All that the authorities will have to do is only to follow the formalities laid down in the new Act with regard to the determination of compensation and passing of award.

5.Therefore, I am not inclined to agree with the contention of the learned Additional Advocate General. But then, the case on hand involves not only the respondent herein but also few thousand more claimants. More than 900 hectares of lands is involved in the project and in some cases, the award enquiry is yet to commence. Therefore, taking note of all these aspects, I am inclined to grant the review applicants one year from the date of receipt of a copy of this order. Even while dismissing this review application, the authorities are given the said time to complete the entire process.”

4.Pursuant to the above order in the review application, the final award came to be passed by the third respondent in final award No.1 of 2021



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dated 31.07.2021. The third respondent determined the compensation to be paid to the petitioner at Rs.16,69,668/-.

5. Aggrieved over the same, the petitioner made a representation dated 11.11.2021 to the respondents stating that the possession of the land was taken in the year 2010 itself and whereas the third respondent has determined the compensation by taking into account the guideline value that was prevailing during the period between 2016-2019 and had determined the compensation payable to the petitioner. The petitioner therefore, sought for redetermination of the compensation by taking into account the fact that the possession of the lands was taken over in the year 2010. Since this representation was not considered, the present writ petition has been filed before this Court.

6. The third respondent has filed counter affidavit justifying the fixation of compensation and has taken a stand that there is no ground for redetermination of the compensation as sought for by the petitioner.

7. When the matter is taken up for hearing today, the learned Additional Government Pleader appearing on behalf of the respondents 1 to 3 submitted that the compensation amount was deposited before the civil Court.



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8.The learned Counsel for the petitioner submitted that the compensation amount has been withdrawn by the petitioner without prejudice to the rights of the petitioner to seek for redetermination of the compensation.

9.The short issue that arises for consideration in the present writ petition is as to whether the third respondent has to redetermine the compensation as sought for by the petitioner through representation dated 11.11.2021.

10.There is no dispute with regard to the fact that the possession of the land was taken from the petitioner on 20.12.2010. Even in the final award that was passed by the third respondent dated 31.07.2021, this has been categorically stated at serial No.15 of the award. But the third respondent has proceeded to take into account the notification that was issued on 17.11.2020 and accordingly the guideline value of the property during the period from 2016 to 2019 was taken into consideration.

11.The determination of compensation cannot be based on issuance of notification, but it has to be necessarily determined from the time when the



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possession of the lands was taken over by the respondents. Just because, the notification was issued in the year 2020, that does not mean that the compensation will be computed only based on the value that was prevailing three years before the issuance of such notification. The petitioner has been deprived of the lands from the year 2010 and therefore, the compensation has to be necessarily decided by taking into account this fact.

12.In view of the above, the representation made by the petitioner dated 11.11.2021 before the respondents has to be considered and the request made by the petitioner for redetermination of the compensation from the date of taking of the actual possession of the property must be decided by the third respondent.

13.In light of the above discussion, there shall be a direction to the third respondent to deal with the representation dated 11.11.2021 made by the petitioner and rework the compensation amount by taking into account the date of taking over the actual possession of the lands i.e., on 20.12.2010 and pass final orders within a period of eight weeks from the date of receipt of a copy of this order. The petitioner shall be given an opportunity before the final orders are passed.



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14.This writ petition is disposed of with the above directions. No costs.

16.11.2023

NCC : Yes / No
Index : Yes/No
Internet : Yes/No
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To

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N.ANAND VENKATESH, J.

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