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WP.No.10300 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.10300 of 2024

Dharmaraj

.. Petitioner

Versus

1.The District Collector
Thiruvannamalai District
Thiruvannamalai

2.The Revenue Divisional Officer
Thiruvannamalai
Thiruvannamalai District

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the record Na. Ka. No.M1/34248/2014 dated 22.09.2023 on the file of 1st respondent and direct the respondents to re-determine the compensation for the acquisition of land admeasuring 0.19.0 compensation hectares comprised in Survey No.79/1, Vengaikal, Thiruvannamalai on the basis of the award No. 5 of 2000 dated 14.02.2000 in L.A.O.P.No. 77/2001 order dated 27.4.2016 on the file of Principal Sub Court, Thiruvannamalai, Thiruvannamalai District.

For Petitioner : Dr.R.Rajarajan

For Respondents : Mr.P.Sathish
Additional Government Pleader



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ORDER

WEB COPY Challenge has been made in this writ petition as against the order passed by the first respondent.

2. The petitioner, in fact, has given a representation under Section 28A of the Land Acquisition Act, 1894. The case of the petitioner is that petitioner's and other land owners lands were acquired for the purpose of construction of Government building. Award was passed in the year 2000, further some of the land owners not satisfied with the award, they have given objections and in pursuant to the reference before the Tribunal in L.A.O.P.No.77 of 2021, the compensation awarded by the Acquisition Officer was enhanced by the Tribunal in respect of Arunachalam vide Order dated 27.04.2016. The petitioner has given a representation within a period of 90 days from the date of award to refer his case also. As the same has not been referred, the writ petitioner has earlier filed a writ petition in W.P.No.272674 of 2019. This Court has set aside the original order passed by the authorities on the ground that file number has not been correctly given by the writ petitioner and the matter has been remanded back to the authorities for fresh order, however, now the impugned order has been passed once again rejecting the claim of the petitioner on the ground that the petitioner has not challenged the award



amount and further no claim has been made within a period of 90 days from the date of award in L.A.O.P.No.77 of 2001. Only on these grounds, the petitioner's claim has been rejected by the authorities. Hence, this writ petition.

3. Heard both sides and perused the materials placed on record.

4. Section 28A of the Land Acquisition Act, 1894 reads as follows:

“28-A. Re-determination of the amount of compensation on the basis of the award of the Court

(1) Where in an award under this Part, the Court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under section 11, the persons interested in all the other land covered by the same notification under section 4, sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector under section 18, by written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the Court: Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.

(2) The Collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard, and make an award determining the amount of compensation payable to the applicants.

(3) Any person who has not accepted the award under sub-section (2) may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court and the provisions of sections 18 to 28 shall, so far



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as may be, apply to such reference as they apply to a reference under section 18.”

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5. The above section makes it clear that once the Court enhanced the compensation and reached finality, all the persons interested and any other lands which are covered under the same acquisition proceedings is also entitled to the similar treatment provided a request is made in this regard within a period of 90 days. Therefore, it is an admitted case that the award amount has been enhanced by the Tribunal in L.A.O.P.No.77 of 2001 and the said judgment has been passed on 27.04.2016. The petitioner has also given an application on 20.07.2016, i.e., within a period of 90 days from the date of award. Therefore, it cannot be said that the petitioner's case cannot be redetermined. When the law provides such redetermination on the ground of similarly situated persons should not be discriminated, this Court is of the view that it is the duty of the authorities to redetermine the compensation in respect of the petitioner in tune with the award already passed.

6. Accordingly, the impugned order stands quashed and the District Collector/first respondent is directed to redetermine the compensation on the basis of the compensation already awarded by the Principal Sub Court, Thiruvannamalai in L.A.O.P.No.77 of 2001. Such exercise shall be completed



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within a period of three months from the date of receipt of copy of this order.

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7. With the above direction, this writ petition stands allowed. No costs.

03.06.2024

dhk

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

To,

1.The District Collector
Thiruvannamalai District
Thiruvannamalai

2.The Revenue Divisional Officer
Thiruvannamalai
Thiruvannamalai District



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N. SATHISH KUMAR, J.

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