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W.P.No.13125 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25..06..2024

Coram

THE HON'BLE MR JUSTICE N.SATHISH KUMAR

Writ Petition No.13125 of 2024

M.Vadivelu

..... Petitioner

-Versus-

- 1.The District Collector,
Chennai District, Chennai.
- 2.The Managing Director,
Tamil Nadu Housing Board,
C.M.D.A. Building Campus,
Koyambedu, Chennai – 107.
- 3.The Special Tahsildar
(Land Acquisition) Unit V,
Tamil Nadu Housing Board,
C.M.D.A. Building Campus,
Koyambedu, Chennai – 107.

..... Respondents

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Mandamus directing the respondents to pay the enhanced compensation together with interest based on the petitioner's representation dated 17.04.2024 and subsequently direct the respondents to pay the interest at the rate of 15% for the enhanced compensation for the subsequent period till the compensation amount is paid.



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For Petitioner : Mr.K.Venkateswaran

*For Respondent (s) : Mr.P.Sathish,
Addl. Government Pleader
for R1
Mr.A.M.Ravindranath
Jayapaul for R2 and R3*

ORDER

This writ petition has been filed seeking a writ in the nature of mandamus directing the respondents to pay the enhanced compensation together with interest based on the petitioner's representation dated 17.04.2024 and subsequently direct the respondents to pay the interest at the rate of 15% for the enhanced compensation for the subsequent period till the compensation amount is paid.

2. The short facts which are required to be noticed for disposal of this writ petition are as follows:-

(i) That the petitioner's house site bearing Plot No.4, measuring an extent of 2480 square feet comprised in S.No.392/1 situated at 189, Sholinganallur Village, Saidapet Taluk, now, Sholinganallur Taluk and the lands belonged to several other persons were acquired for public purpose.

(ii) The Land Acquisition Officer (LAO) determined the market value of the lands acquired for the purpose and accordingly fixed the compensation for



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the lands acquired from the owners including the petitioner.

(iii) However, not satisfied with the compensation determined by the LAO, seeking enhanced compensation, some of the neighboring land owners whose lands were also acquired under the very same notification had moved the Land Acquisition Officer concerned for enhancement of compensation, who in turn, referred the matter to the jurisdictional reference court for determination of compensation.

(iv) The reference court took up the matters and assigned number as L.A.O.P.Nos.57 of 2001, 197, 239, 274 and 323 of 2002 and transferred the cases to the file of the learned Additional District Judge, Fast Track Court-III, Poonamallee who, in turn, after hearing both parties, by a common order dated 28.04.2017 enhanced the market value already fixed in respect of the acquired land.

(v) Admittedly the petitioner had not filed any Reference Petition seeking enhancement of compensation and therefore, his case has not been referred for consideration before the Court concerned. The petitioner was paid compensation calculating the market value of the land acquired from him only at Rs.556/- per cent.

(vi) Aggrieved by the enhancement of compensation made by the reference court by order dated 28.04.2017, the Special Tahsildar (LA), IV



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TNHB Scheme, Nandanam, Chennai preferred appeal before this court in A.S.No.711 of 1996 and batch. This court by common judgement dated 18.09.2003 disposed of the appeals thereby allowing the appeal in part and fixing the market value as Rs.4,600/- per cent besides other statutory benefits.

(vii) However, it is to be noted that under Section 28-A of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act") where an award under the Act is passed and the Court allows the applicant any amount of compensation in excess of the amount awarded by the LAO under Section 11, the persons interested in all the other lands covered by the same notification under Section 4, sub-Section (1) of the Act 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 Collector to fix the amount of compensation payable to them which shall be re-determined on the basis of the amount of compensation awarded by the Court.

(viii) Therefore, this is an enabling provision for landholders in whose favour if any compensation has been fixed and as against which, though they had a grievance, if they have not chosen to seek for the reference of the matter



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to the Reference Court for determination of enhancement of compensation and in the very same notification, if other landholders already approached the Reference Court and get an enhanced compensation, the said benefit can be sought for, like the petitioner, for which, this enabling provision under Section 28-A has been inserted by Act 68 of 1984.

(ix) The petitioner was paid compensation calculating the market value of the land at Rs.556/- on 29.01.2022. The total compensation arrived by the LAO was Rs.2,80,413/- and it was deposited into Sub Court, Poonamallee under Sections 30 and 31(2) of the Land Acquisition Act, 1894.

(x) Only in this context, it is the further case of the petitioner that, on 14.02.2022, he had made a request to enhance the compensation at Rs.4600/- per cent and accordingly, the enhanced compensation be fixed and paid to the petitioner.

3. According to the petitioner, he filed a writ petition in W.P.No.38800 of 2002 seeking a direction for the disbursement of compensation. Though this court was pleased to direct to respondents consider the representation of the petitioner for the disbursement of compensation by order dated 12.11.2002, the same was not complied with. Thereafter, he issued a legal notice to the 2nd respondent on 17.12.2008 calling upon the 2nd respondent to pay the



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compensation amount. He sent several representations in this regard, But, there was no response. At last he filed a writ petition in W.P.No.35363 of 2019 seeking a writ of mandamus directing the respondent to pay the compensation amount together with interest thereon till the date of payment for the land acquired from him. This court was pleased to allow the said writ petition by order dated 24.11.2021 directed the 2nd respondent to calculate the award amount together with interest payable and pay the same to the petitioner with cost for the delay payment. Only thereafter, he was paid the compensation amount on 29.01.2022.

4. The grievance of the petitioner is that he was paid compensation calculating the market value of his property only at Rs.546/- per cent and whereas neighbouring land owners were paid compensation calculating the market value of their lands at Rs.4,600/- per cent. He was able to get the compensation only 29.01.2022 that too only at the indulgence of this court. Thereafter he made a representation on 14.02.2022 seeking to pay fair compensation as determined by this court. As there was no response, he had to send another representation dated 17.04.2024.

5. Heard both sides.

6. Considering the fact that the District Collector is the competent



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authority to make reference under Section 28 [A] [1] and [2] of Land Acquisition Act, 1894, this court, without going into merits and demerits of the claim of the petitioner, directs the 1st respondent to consider the representations of the petitioner dated 14.02.2022 and 17.04.2024 and take an appropriate decision in accordance with law as to whether the written application of the petitioner dated 14.02.2022 for enhancement of compensation deserves consideration as per law and pass appropriate orders thereof on merits and in accordance with law and if he finds that the written application made by the petitioner seeking re-determination of compensation in accordance with law, refer the same to the arbitral tribunal the tribunal for re-determination of compensation with all other benefits as per the law and in the light of the award of this court.

With the above directions, this Writ Petition stands disposed of. No costs.

Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order

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N.SATHISH KUMAR.J.,

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