



W.P.No.15083 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 04..07..2024

Coram

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Writ Petition No.15083 of 2024

1.K.Jayakrishnan

2.K.Sagadevan

..... Petitioners

-Versus-

1.The District Collector,
Erode District, Erode.

2.The Revenue Divisional Officer,
Meenakshisundararar Street,
Erode, Erode District.

3.The Managing Director,
Tamil Nadu Housing Board,
CMDA Building, E & C Market Road,
Koyambedu, Chennai 600 107.

4.The Executive Engineer,
Administrative Officer,
Tamil Nadu Housing Board,
Sampath Nagar, Erode 638 011.

..... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a *Writ of Mandamus*, directing the 1st respondent to conduct an enquiry and pass orders by invoking the provisions of Section 28-A of the Land Acquisition Act, 1894 on the basis of the application made by the petitioners on 04.12.2006 and 11.05.2013 for redetermination of compensation for the land



W.P.No.15083 of 2024

situated in S.No.761/1, Erode C-Village, Erode District, measuring an extent of 0.64.0 Hectares of land.

For Petitioner (s) : Mr.C.Prakasam

*For Respondent (s) : Mr.A.Selvendran,
Spl. Government Pleader for
RR1 and 2
Mr.C.Kalaichelvan for RR3 & 4*

ORDER

This writ petition has been filed seeking a writ in the nature of mandamus, directing the 1st respondent to conduct an enquiry and pass orders by invoking the provisions of Section 28-A of the Land Acquisition Act, 1894 on the basis of the application made by the petitioners on 04.12.2006 and 11.05.2013 for redetermination of compensation for the land situated in S.No.761/1, Erode C-Village, Erode District, measuring an extent of 0.64.0 Hectares of land.

2.The short facts as culled out from the pleadings in the writ petition for the disposal of the present writ petition are as follows:

(i) The petitioners are brothers. Their father Karuppanna Gounder owned an extent of Acres 5.10 Cents of land comprised in S.Nos.753/1 and 761/1, Erode C-Village, Erode District.



W.P.No.15083 of 2024

(ii) The said land was acquired by the Government under the Land Acquisition Act, 1894 for Tamil Nadu Housing Board for the purpose of neighbourhood scheme.

(iii) The acquisition proceedings culminated into an Award vide Award No.2 of 1994 dated 10.06.1994. The LAO fixed the market value at Rs.37,000/- per acre.

(iv) Not satisfied with the compensation determined by the LAO matter has been sought to be referred to the Reference Court for enhancement of compensation at the instance of some of the landholders.

(v) Accordingly, those issues had been referred to the reference court (I Additional Sub court, Erode). One of such references was numbered as L.A.O.P.No.22 of 2024. The said original petition was decided and disposed of by the reference court by order dated 07.08.2006 and the reference court enhanced the compensation by fixing the market value at Rs.20/- per square feet.

(vi) The petitioners did not file any written application to refer matter to the civil court for enhancement of compensation and therefore their case has not been referred for consideration before the Court concerned.

(vii) Aggrieved by the award of the reference court, the Special Tahsildar (LA), Neighbourhood Scheme, Erode preferred an appeal before this



W.P.No.15083 of 2024

court in A.S.No.399 of 2007. This court by judgement dated 02.03.2009 while allowing the appeal, reduced the compensation from Rs.20/- per square to Rs.8/- per square feet.

(viii) Being aggrieved by the judgement of this court dated 02.03.2009 made in A.S.No.399 of 2007, the petitioners approached the Hon'ble Supreme Court by way of Civil Appeal No.905 of 2013 and the Hon'ble Supreme Court by order dated 01.12.2013 allowed the appeal and thereby modified the judgement of this court and fixed the market value at Rs.20/- per square feet. In that order, the Hon'ble Supreme Court referred the case of Valliammal whose land was acquired along with the petitioners' land for the very same scheme wherein the Hon'ble Supreme Court observed that the land owners, whose lands were acquired for Erode Housing Unit Scheme and who have not approached either the respondents or the civil court are also eligible to get enhanced compensation at the rate of Rs.20/- per square feet.

(ix) 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 Collector 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

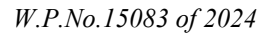


W.P.No.15083 of 2024

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.

(x) 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 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 petitioners, for which, this enabling provision under Section 28-A has been inserted by Act 68 of 1984.

(xi) Only in this context, it is the further case of the petitioners that, on 04.12.2006, they made a request to enhance the compensation at Rs.20/- per square feet. There was no response from the acquisitioning authority concerned. After the disposal of the Civil Appeal by the Hon'ble Supreme Court by order dated on 01.02.2013, the petitioners once again made a request to redetermine the compensation at Rs.20/- per square feet by way of representation dated



6. Considering the fact that the District Collector is the competent person to make reference under section 28 [A] [1] and [2] of Land Acquisition Act, the 1st respondent is directed to refer the matter to the tribunal for redetermination of compensation together with all other benefits as per Land Acquisition Act



W.P.No.15083 of 2024

and in the light of the judgement of the Hon'ble Supreme Court dated

01.02.2013 made in Civil Appeal No.905 of 2013.

7. 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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04..07..2024

To

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W.P.No.15083 of 2024

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W.P.No.15083 of 2024

04..07..2024