



WEB COPY



WP No. 22251 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.12.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.22251 of 2023

B. Ananthalakshmi

...Petitioner

Vs

1 The District Collector,
Kancheepuram District,
Kancheepuram – 631 501.

2 The Land Acquisition Officer and Special Tahsildar, LA
Chennai City Water Ways Scheme,
Ambattur, Chennai- 600053

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent and quash the Impugned Order dated 16.03.2023 made in Na.Ka.No.61288/2003/F.2 on the file of the 1st Respondent as the same is perverse, arbitrary, biased, illegal, untenable, smacks of malafide and colourable exercise of power and against all principles of law and natural justice and consequentially direct the 2nd respondent to settle the petitioner's 1/6th Share in the entire enhanced compensation award amount at the rate of Rs. 50,000/- per cent with all accrued benefits namely solatium, interest and penal interest etc., payable for acquisition of wet lands measuring 1 Acre 39



WP No. 22251 of 2023

Cents (0.56.5 Hectares) comprised in Survey No. 321 situated in Thirumudivakkam Village, Kundrathur Taluk, Kanchipuram District acquired by the respondents for the purpose of Chennai City Water Scheme under Section 28(A) of Land Acquisition Act, 1984 read with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, thereby treating the petitioner on par with other similarly placed claimants whose lands were acquired for the said project and were paid enhanced compensation along with other benefits as detailed above based on the order dated 12.09.2018 passed by the Hon'ble Supreme Court in Civil Appeal Nos. 9526-9530 of 2018 arising out of SLP (C.) Nos. 25131- 25135.

For Petitioner : Mr. S.L. Sudarsanam

For Respondents

1 and 2 : Mr. P. Satish,
Additional Government Pleader

ORDER

The writ petition is filed for the following relief:

“To issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent and quash the Impugned Order dated 16.03.2023 made in Na.Ka.No.61288/2003/F.2 on the file of the 1st Respondent as the same is perverse, arbitrary, biased, illegal, untenable, smacks of malafide and colourable exercise of



WP No. 22251 of 2023

WEB COPY

power and against all principles of law and natural justice and consequentially direct the 2nd respondent to settle the petitioner's 1/6th Share in the entire enhanced compensation award amount at the rate of Rs. 50,000/- per cent with all accrued benefits namely solatium, interest and penal interest etc., payable for acquisition of wet lands measuring 1 Acre 39 Cents (0.56.5 Hectares) comprised in Survey No. 321 situated in Thirumudivakkam Village, Kundrathur Taluk, Kanchipuram District acquired by the respondents for the purpose of Chennai City Water Scheme under Section 28(A) of Land Acquisition Act, 1984 read with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, thereby treating the petitioner on par with other similarly placed claimants whose lands were acquired for the said project and were paid enhanced compensation along with other benefits as detailed above based on the order dated 12.09.2018 passed by the Hon'ble Supreme Court in Civil Appeal Nos. 9526-9530 of 2018 arising out of SLP (C.) Nos. 25131- 25135.”

2. It is the case of the petitioner that her father, late Jayaram Pillai was the absolute owner of the property measuring an extent of 1 acre 39 cents (0.56.5 hectares) comprised in Survey No.321 situated in Thirumudivakkam Village,



WP No. 22251 of 2023

Kundrathur Taluk, Kanchipuram District. He had been cultivating the said lands for several years. He died on 21.10.2009. The writ petitioner is one of the legal heirs of the said Jayaram Pillai. The petitioner along with her siblings had inherited the lands and had been in joint possession and enjoyment of the property. Prior to the death of her father, the State had acquired the lands for the purpose of Chennai City Waterways Scheme in the year 2007. The petitioner's father had appeared for the enquiry conducted by the 2nd respondent and claimed a compensation of a sum of Rs.1,00,000/- per cent. Thereafter, the petitioner was not called for further enquiry though she became entitled to a 1/6th share in the property. Later, she came to know that Award No. 4 of 2007 was passed by the 2nd respondent herein. The petitioner had not preferred any appeal under Section 18 of the Land Acquisition Act, 1894 (hereinafter called the Act), but some of the affected owners had preferred an appeal against the Award passed by the Land Acquisition Officer before this Court. The Division Bench of this Court had confirmed the order of the lower Court and granted enhanced compensation of Rs.29,435/- per cent along with other statutory dues on 30.06.2017. Not satisfied with the said order, some of the land owners have preferred an appeal before the Hon'ble Supreme Court in Civil Appeal Nos.9520 to 9530 of 2018 wherein the compensation was enhanced to a sum of



WP No. 22251 of 2023

Rs.50,000/- per cent along with other statutory dues by an order dated 12.09.2018. However, the respondents have failed to compensate the petitioner. On 08.04.2022, the petitioner had issued a legal notice to the respondents to pay her the enhanced compensation amount. This request has been rejected by the 1st respondent vide the impugned order dated 16.03.2023 stating that the petition is time barred.

3. Heard the learned counsels and perused the materials available on record.

4. Admittedly, the compensation in respect of the lands had been enhanced to a sum of Rs.50,000/- per cent. The petitioner had not taken out an application seeking a reference under Section 18 of the Act, however, under Section 28A of the Act, she is entitled to the enhanced compensation. The only ground on which her application has been rejected is on the ground of limitation.

5. In a recent judgment of the Hon'ble Supreme Court in Civil Appeal No.13348 of 2024 reported in **2024 SCC Online SC 3685 [Banwari and**



WP No. 22251 of 2023

Others Vs Haryana State Industrial and Infrastructure Development

Corporation Limited [HSIIDC] and another, the Hon'ble Supreme Court had

observed that a three Member Bench in the case of ***Ramsinghai[Ramsangbhai] Jerambhai Vs. State of Gujarat and Another [2018 (16) SCC 445]*** had held that the application under Section 28A of the 1894 Act can only be filed within a period of 3 months from any judgment of the reference Court under Section 18 of the Act, arising from the same acquisition but not from the date of the judgment of the Hon'ble Supreme Court or the High Court. The Bench further observed that this judgment has not taken note of earlier judgment passed in ***Union of India and another V. Pradeep Kumari and others reported in (1995) 2 SCC 736*** where the Hon'ble Supreme Court had held that the application under Section 28A of the Act would run from the date of the Award on the basis of which redetermination of the compensation is sought and the same has been observed in paragraph 24 in the said judgment which reads as follows:

“24. As already discussed hereinabove, the provisions of Section 28-A(1) of the 1894 Act have been elaborately considered by a three Judges Bench of this Court in the case of Pradeep Kumari and Others (supra).



WEB COPY

In the said case, it has been held that the Statement of Objects and Reasons of Section 28-A would reveal that the object underlying the enactment of the said provision is to remove inequality in the payment of compensation for same or similar quality of land. It has been held that the said provision is for giving benefit to inarticulate and poor people not being able to take advantage of the right of reference to the civil court under Section 18 of the Act. It has been held that this is sought to be achieved by providing an opportunity to all aggrieved parties whose land is covered by the same notification to seek redetermination once any of them has obtained orders for payment of higher compensation from the reference court under Section 18 of the Act. The same benefit would be available to the other landholders under Section 28-A. It has been held that Section 28-A being a beneficent legislation enacted in order to give relief to the inarticulate and poor people, the principle of interpretation which would be required to be adopted is the one which advances the policy of the legislation to extend the benefit rather than a construction which has the effect of curtailing the benefit conferred by it.”



WP No. 22251 of 2023

In the instant case, the order of the Hon'ble Supreme Court had been passed on 12.09.2018 and a representation has been made on 16.11.2018 itself.

Therefore, it is well within 3 months from the date on which the compensation has been granted by the Hon'ble Supreme Court. Therefore, the writ petition is allowed and the impugned order of the 1st respondent is hereby quashed. The respondents are directed to consider the petitioner's application filed under Section 28A of the Act for redetermination of the Award and pass orders within a period of two months from the date of receipt of a copy of this order. No costs. .

18.12.2024

Index: Yes/No

Speaking order/non-speaking order

Neutral Citation: Yes/No

srn

To,

- 1 The District Collector,
Kancheepuram District,
Kancheepuram – 631 501.
- 2 The Land Acquisition Officer and Special Tahsildar, LA
Chennai City Water Ways Scheme, Ambattur, Chennai- 600053



WEB COPY



WP No. 22251 of 2023

P.T.ASHA, J.,

srn

W.P.No.22251 of 2023

18.12.2024