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W.P. No.36247 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.36247 of 2023 and

W.M.P. No.36246 of 2023

Sarasa

... Petitioner

Vs.

1. The Government of Tamil Nadu

Rep. by its Secretary (Public Works Department)

Chennai - 600 009

2. District Collector,

Kancheepuram District, Kanchipuram

3. Land Acquisition Officer (Special Tahsildar)

Ambattur, Chennai - 600 053

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified Mandamus to call for records pertaining to proceedings in Na.Ka.No.08/2019/A dated 19.10.2022 passed by the 3rd respondent and quash the same and direct the respondents to disburse the enhanced compensation as per the judgment in Civil Appeal No.9526 to 9530/2018 dated 12.09.2018 passed by the Apex Court with all statutory benefits.

For Petitioner : Mr.R.Subramanian
and Mr.V.Sukumar

For Respondents : Mr.T.Arun Kumar
Additional Government Pleader

**ORDER**

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This Writ Petition is filed seeking a Writ of Certiorarified Mandamus to call for records pertaining to proceedings in Na.Ka.No.08/2019/A dated 19.10.2022 passed by the 3rd respondent and quash the same and direct the respondents to disburse the enhanced compensation as per the judgment in Civil Appeal No.9526 to 9530/2018 dated 12.09.2018 passed by the Apex Court with all statutory benefits.

2. The learned counsel for the petitioner submitted the petitioner's sister died on 11.04.2022 after executing a Will dated 03.05.2019 in favour of the petitioner. The petitioner's land was acquired along with other adjacent properties and Award was also passed in Award No.3/2007 dated 30.11.2007. Since the compensation fixed by the Land Acquisition Officer was very less, the petitioner's sister received the compensation under protest and requested the Land Acquisition Officer to refer the matter to Tribunal. The said reference was taken in L.A.O.P. No.31/2009 by the the Sub Court, Kanchipuram and the reference Court enhanced the



compensation from Rs.1500/- per cent, which was fixed by the Land

Acquisition Officer, to Rs.29,435/-, along with interest and other benefits

by order dated 21.02.2011. Similarly, a batch of L.A.O.Ps, was filed before

the very same Tribunal and the Tribunal also enhanced amount and one of

the claimants, namely Suresh Kumar in L.A.O.P.No.1443/2008 challenged

the Award in A.S.No.32/2015 before this Court. The Special Tahsildar also

challenged the above said Award in A.S. No.19/2017 and this Court, dealt

with both the appeals and enhanced the compensation from Rs.29,430/- to

Rs.39,240/- per cent, by judgment dated 17.11.2017. Aggrieved by the

same, the said Suresh Kumar filed an appeal before the Hon'ble Supreme

Court for further enhancement of compensation from Rs.39,240 to

Rs.50,000/- per cent. The Hon'ble Supreme Court, while dealing with the

matter in Civil Appeal Nos.9526-9530 of 2018, along with Civil Appeal

Nos.9531-9532 of 2018, by judgment dated 12.09.2018, enhanced the

compensation from Rs.39,240/- to Rs.50,000/- per cent, and also observed

that, "making appropriate deduction for smallness of plot as well as

development, we deem it appropriate to award compensation of



Rs.50,000/- per cent for both villages as they are adjacent". Thereafter, the petitioner's deceased sister made a representation to the respondent on

10.03.2022 requesting the authorities to pay enhanced compensation of

Rs.50,000/- per cent with other benefits as granted in L.A.O.P.

Nos.31/2019 and 1448/2008 as obtained by one Narayanan before the

Hon'ble Supreme Court, whereas, the 3rd respondent failed to implement

the above order of the Supreme Court and vide proceedings in

Na.Ka.No.08/2019/A dated 19.10.2022, the third respondent rejected her

claim stating that the compensation as awarded by the Sub Court,

Kancheepuram, had already been paid and the higher compensation

awarded by the Hon'ble Supreme Court, will have only to be paid to the

petitioners in the said Civil Appeals and not to other claimants.

Challenging the same, the present Writ petition is filed before this Court.

The contention of the petitioner is that, since the petitioner is also placed

on par with that of the appellants before the Supreme Court, petitioner

herein is also covered under the very same acquisition and Award, and

therefore, the petitioner is also entitled for the compensation as enhanced



by the Hon'ble Supreme Court. Therefore, the impugned order has to be quashed and this Writ Petition has to be allowed.

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3. The learned Additional Government Pleader appearing for the respondents submitted that the judgment of the Hon'ble Supreme Court is a Judgment-in-personam and it will not bind the other persons who did not approach the Hon'ble Supreme Court. Whoever approached the Supreme Court and obtained the judgment in their favour, are only are entitled for the enhanced compensation and not the other persons. Therefore, the Writ Petitioner is not entitled to the enhanced compensation.

4. Heard both sides and perused the materials available on record.

5. It is not in dispute that the petitioner's land was acquired and that the petitioner's land is covered under the Award No.3/2007 dated 30.11.2007. Further, it is not disputed that the petitioner's reference was also taken by the Reference Court and the compensation amount was also



enhanced from Rs.1,500/- per cent to Rs.29,435/- per cent, with interest and other benefits. Similarly, in a batch of LAOPs, the Sub Court has enhanced the amount. Thereafter, when some other land-loser challenged the order of the Tribunal before this Court, a Division Bench of this Court has enhanced the compensation amount from Rs.29,430/- to Rs.39,240/- as stated above. Aggrieved by the same, an appeal has been filed before the Hon'ble Supreme Court, in which, the Hon'ble Supreme Court had enhanced the amount in toto to the lands covered under both the villages uniformly as Rs.50,000/-.

6. When once the Hon'ble Supreme Court fixed the Award amount to all the land-losers uniformly covered under the two villages which are under acquisition and that the petitioner who is also a land-loser in the very same acquisition proceedings covered under the very same Award, she is also placed on par with them. Therefore, the contention of the learned Additional Government Pleader appearing for the respondents that the judgment of the Hon'ble Supreme Court is only to judgment-in-personam, is not acceptable.



7. Further, a combined reading of the entire materials available on record and also the object of Section 28-A of the Land acquisition Act shows that even the persons who are not covered under the LAOP or Appeal or SLP, shall also be considered, if they make an application under Section 28-A of the said Act and there cannot be any discrimination.

8. Under the above said circumstances, the impugned order passed by the third respondent is quashed. The Writ Petitioner is entitled to the compensation on par with the other land-losers as per the decision of the Hon'ble Supreme Court in Civil Appeal No.9526-9530/2018 dated 12.09.2018, as discussed supra.

9. For the reasons stated supra, the respondents herein are directed to pay the enhanced compensation on par with the other land losers as per the above decision of the Hon'ble Supreme Court, as per the prevailing Rules with all other benefits to the Writ Petitioner within a period of six weeks from the date of receipt of a copy of this order.



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10. Accordingly, this Writ Petition is allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No



To

1. The Secretary (Public Works Department)
Chennai - 600 009

2. District Collector,
Kancheepuram District
Kanchipuram

3. Land Acquisition Officer (Special Tahsildar)
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P.VELMURUGAN. J.

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