



WP.No.37176 of 2024

In the High Court of Judicature at Madras

Dated : 12.12.2024

Coram :

The Honourable Ms.Justice P.T.ASHA

Writ Petition No.37176 of 2024

1.B.Balusamy

2.B.Narayanasamy

...Petitioners

Vs

1.The Government of Puducherry,
rep.by its Chief Secretary,
Puducherry-1.

2.The District Collector (Revenue),
I Floor, New Revenue Complex,
Vazhudavoor Road,
Pettaiyanchathiram, Puducherry-9.

3.The Deputy Collector (Revenue)
South-cum-Land Acquisition
Officer, Villianur, Puducherry-1.

4.The Managing Director,
Pondicherry Industrial Promotion
Development & Investment
Corporation (PIDIC), No.60,
Romain Rolland Street,
White Town, Puducherry-1.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the 2nd respondent to re-determine the compensation awarded to the petitioners' lands acquired at Karasur Revenue Village in Award No.2/ 2008 to a sum of



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Rs.21,261/- per Are based on the petitioner's application under Section 28A of the Land Acquisition Act, 1894 dated 20.3.2019 and his representation dated 18.6.2024 pursuant to the enhanced compensation award passed in LAOP.No.110 of 2012 on the file of the Second Additional District Judge Puducherry.

For Petitioners : Mr.V.Rajesh Babu
For Respondents : Mr.M.Nirmal Kumar, GA (P)

ORDER

Seeking a Mandamus to the second respondent to consider the individual applications of the petitioners under Section 28A of the Land Acquisition Act, 1894 (for short, the Act) both dated 18.3.2019 and the representation of the first petitioner dated 18.6.2024 to re-determine the compensation awarded for the lands acquired at Karasur Revenue Village in Award No.2 of 2008 dated 25.1.2008 pursuant to the enhanced compensation award passed in LAOP.No.110 of 2012 on the file of the Second Additional District Court, Puducherry to the tune of Rs.21,261/- per Are, the petitioners are before this Court.

2. Heard the learned counsel for the petitioners and the learned Government Advocate (Puducherry) accepting notice for the respondents.



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3. The short facts, which have culminated in filing of the above writ petition, are as follows :

(i) The petitioners are brothers. The affidavit is sworn to by the first petitioner. Pursuant to the request made by the fourth respondent, the first respondent decided to acquire large extent of lands in Sedarapet and Karasur Revenue Villages, Villianur Taluk for setting up a special economic zone. Consequently, a total extent of 306.64.27 hectares had been earmarked and a Notification under Section 4(1) of the Act was published in the Puducherry Government Gazette on 24.3.2005 informing the general public that these lands were acquired for a public purpose by invoking the urgency provision under Section 17(4) of the Act.

(ii) Since the acquisition was under the urgency clause, the respondents were bound to disburse 80% of the proposed compensation in advance as per Section 17(3)A of the Act. The third respondent issued a communication dated 04.7.2006 to the first petitioner conveying the offer in advance. Therefore, according to the petitioners, the third respondent had already quantified the compensation payable to them on verifying the title of the individual land owners/interested parties. Though, as per Section 17(3)A of the Act, possession could be taken only after disbursement of 80% of the compensation in advance, the respondents had not complied with this



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condition precedent.

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(iii) The third respondent namely the Land Acquisition Officer passed an award in Award No.2 of 2008 on 25.1.2008. Pursuant to that, in order to decide the rightful claimant, who has to receive the compensation amount as per the award dated 25.1.2008 in award No.2 of 2008, at the instance of third respondent, the reference came to be numbered as L.A.O.P.No.13 of 2012 on the file of the Principal District Court, Puducherry. In that, the petitioners contended that they are the rightful owners as their grandfather executed a settlement deed dated 24.10.1961 in their favour by appointing their father as the guardian and that they would be entitled to a sum of Rs.11,64,566/- for the property acquired. Ultimately, the Court below, by award dated 20.2.2015, held that the petitioners are the rightful claimants to receive the compensation equally and awarded a sum of Rs.2,88,101/- to be paid to them together with proportionate interest accrued thereon. The Court below also granted liberty to the petitioners to approach the appropriate authority under Section 18 of the Act for enhancement of compensation.

(iv) One land owner namely Mr.Jothi, S/O Govindasamy, who was aggrieved by the compensation awarded by the third respondent, preferred a reference application under Section 18 of the Act and the reference was taken on file as L.A.O.P.No.110 of 2012 by the Principal



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District Court, Puducherry and thereafter it was transferred to the Second Additional District Court, Puducherry. After contest, by award dated 01.12.2008, the Court below enhanced the award amount to a sum of Rs.21,261/- per Are as against the compensation awarded in a sum of Rs.12,352/- per Are and Rs.13,700/- per Are by the third respondent in award No.2 of 2008 dated 25.1.2008. The Court below further granted 30% solatium and 12% additional market value including statutory interest on the enhanced compensation as per Section 28 of the Act. The enhanced compensation amount has also been disbursed by the respondents.

(v) The petitioners have not made any application under Section 18 of the Act seeking reference. Though they are aggrieved by the award passed by the third respondent, they are willing to receive the enhanced compensation awarded in L.A.O.P.No.110 of 2012 dated 01.12.2008 by the Court below. Therefore, the petitioners, after obtaining a certified copy of the award dated 01.12.2008 in L.A.O.P.No.110 of 2012 passed by the Court below, made individual applications both dated 18.3.2019 to the second respondent under Section 28A of the Act to redetermine the compensation awarded from a sum of Rs.12,352/- per Are to a sum of Rs.21,261/- per Are. These applications were received by the second respondent on 20.3.2019. Though an inquiry was conducted by the third respondent on



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04.12.2023, in which, the first petitioner also appeared, nothing was forthcoming. The first petitioner also sent a representation dated 18.6.2024 to the second respondent. But, no action was taken on that. Hence the writ petition.

4. The learned Government Advocate (Puducherry) appearing for the respondents would submit that the applications of the petitioners are barred by limitation in as much as under Section 28A of the Act, the application for redetermination has to be made within three months from the date of the award passed by the Land Acquisition Officer.

5. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record.

6. The only objection of the respondents is on the question of limitation.

7. A reading of the Proviso to Section 28A of the Act would make it clear that for computing the period of three months, the date, on which, the award was pronounced and the time for obtaining the



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certified copy of the award has to be excluded.
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8. The petitioners' contention is that the certified copy of the award in L.A.O.P.No.110 of 2012 was obtained on 20.2.2019 and the applications dated 18.3.2019 under Section 28A of the Act were received on 20.3.2019. Hence, they would fall within the Proviso to Section 28A of the Act.

9. That apart, in one of the recent judgments of the Hon'ble Supreme Court in the case of ***Banwari & Others Vs. Haryana State Industrial and Infrastructure Development Corporation Ltd. (HSIIDC) & another [Civil Appeal No.13348 of 2024 dated 10.12.2024]***, the learned Judges have ultimately held that the provision under Section 28A of the Act, which is a beneficial legislation, is to give benefits to the inarticulate and poor people, who are not able to take advantage of the right of reference under Section 18 of the Act and allowed the appeal and quashed the judgment of the High Court of Punjab and Haryana at Chandigarh, which held that the application under Section 28A of the Act was time barred. The Bench has further observed as follows :

"24. As already discussed herein above, the provisions of Section 28-A(1) of the 1894 Act have



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been elaborately considered by a three Judges Bench of this Court in the case of Pradeep Kumari and Others (supra). 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.

25. We are, therefore, inclined to allow the appeal. The impugned judgment and order of the High Court dated 25th November 2021 is quashed



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*and set aside and the order of the LAC dated 15th
September 2020 is upheld."*

10. The said judgment of the Hon'ble Supreme Court squarely applies on all fours to the issue involved in this writ petition.

11. Accordingly, the writ petition is allowed and the second respondent is directed to consider the petitioners' individual applications dated 18.3.2019 to redetermine the compensation already awarded to the petitioners by the third respondent within a period of six weeks from the date of receipt of a copy of this order. No costs.

12.12.2024

To

- 1.The Chief Secretary, Government
of Puducherry, Puducherry-1.
- 2.The District Collector (Revenue),
I Floor, New Revenue Complex,
Vazhudavoor Road,
Pettaiyanchathiram, Puducherry-9.
- 3.The Deputy Collector (Revenue)
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P.T.ASHA,J

RS

4.The Managing Director,
Pondicherry Industrial Promotion
Development & Investment
Corporation (PIDIC), No.60,
Romain Rolland Street,
White Town, Puducherry-1.

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