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WP.No.37172 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.37172 of 2024

P.Ramadoss

Vs

...Petitioner

- 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 (PIPDIC), 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 petitioner's lands acquired at Karasur Revenue Village in Award No.2 of 2008 to a sum



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of Rs.21,261/- per Are based on the petitioner's application under Section 28A of the Land Acquisition Act, 1894 dated 21.3.2019 and his representation dated 06.6.2024 pursuant to the enhanced compensation award passed in LAOP.No.110 of 2012 on the file of the Additional District Judge Puducherry.

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

ORDER

Seeking a Mandamus to the second respondent to consider his application under Section 28A of the Land Acquisition Act, 1894 (for short, the Act) dated 18.3.2019 and his representation dated 06.6.2024 to re-determine the compensation awarded for his lands acquired at Karasur Revenue Village in Award No.2 of 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 petitioner is before this Court.

2. Heard the learned counsel for the petitioner 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) 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 petitioner conveying the offer in advance. Therefore, according to the petitioner, the third respondent had already quantified the compensation payable to the petitioner 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 condition precedent.



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(iii) The lands of the petitioner were taken over by the second respondent in entirety on 20.7.2006 itself i.e. well before 80% compensation was disbursed. The final compensation determined is substantially low and not commensurate with the market value. The third respondent namely the Land Acquisition Officer passed an award in Award No.2 of 2008 on 25.1.2008.

(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 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 petitioner has not made any application under Section 18 of the Act seeking reference. Though he is aggrieved by the award



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passed by the third respondent, he is willing to receive the enhanced compensation as awarded in L.A.O.P.No.110 of 2012 dated 01.12.2008 by the Court below. Therefore, the petitioner, 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 an application 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. This application was received by the second respondent on 21.3.2019. However, it has not been taken up for consideration to date. Hence the writ petition.

4. The learned Government Advocate (Puducherry) appearing for the respondents would submit that the application of the petitioner is 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.



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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 certified copy of the award has to be excluded.

8. The petitioner's 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 application dated 18.3.2019 under Section 28A of the Act was received on 21.3.2019. Hence, it 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



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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 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



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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 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 petitioner's application dated 18.3.2019 to redetermine the compensation already awarded to the petitioner 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

RS



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P.T.ASHA,J

RS

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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