



Order dated 26.02.2024
in W.P.No.32451 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26.02.2024

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.32451 of 2018

1. Mr.E.Subramani
2. Mrs.Gengammal
3. Mr.D.Babu

.. Petitioners

Vs.

1. The District Collector,
Thiruvallur District.
2. The Special Tahsildar (LA),
Outer Ring Road,
Chennai Metropolitan Development Authority,
Egmore, Chennai-8.
3. The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai-8.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India,
praying for issuance of a Writ of Mandamus to direct the respondents to re-
determine the compensation for the lands of the petitioners in terms of



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Section 28-A, based on the representation, dated 27.11.2017, taking into account the judgment of this Court passed in A.S.Nos.472 to 480 of 2012, dated 13.10.2015 and 04.04.2017.

For petitioners : Mr.N.Nithyanandam

For respondents: M.T.Arun Kumar, Addl.G.P. for RR-1 & 2

Mrs.P.Veena Suresh, Standing Counsel for R-3

ORDER

The petitioners have filed the above Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents to re-determine the compensation for the lands of the petitioners in terms of Section 28-A of the Land Acquisition Act, based on the representation, dated 27.11.2017, taking into account the judgment of this Court passed in A.S.Nos.472 to 480 of 2012, dated 13.10.2015 and 04.04.2017.

2. Learned counsel for the petitioners submitted that the land(s) in question was acquired by the second respondent for Outer Ring Road, Phase-2. After due formalities, Award was passed on 30.10.2007 in Award No.3 of 2007. Some of the land-holders made a reference before



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the Land Acquisition Tribunal for enhancement of compensation. The Tribunal/LAOP Court enhanced the compensation and aggrieved by the same, the Special Tahsildar (LA), (second respondent herein) filed Appeal Suits in A.S.Nos.98 to 102 of 2017 before this Court and this Court, by common judgment dated 04.04.2017, dismissed the said Appeal Suits, confirming the order of the Reference Court (IIIrd Additional District Court), Tiruvallur @ Poonamallee in L.A.O.P.Nos.421, 423, 427 and 428 of 2008, dated 05.03.2015 and L.A.O.P.No.471 of 2008, dated 10.09.2015. Earlier, in respect of the very same land acquisition proceedings, challenging the common Award dated 29.04.2011 in L.A.O.P.Nos.329, 335, 336, 339, 344, 345, 375, 430 and 448 of 2008 on the file of the Additional District Court (Fast Track Court No.2), Poonamallee, Appeal Suits were filed before this Court in A.S.Nos.472 to 480 of 2012 and a Division Bench of this Court, by common judgment, dated 13.10.2015, dismissed those Appeal Suits in A.S.Nos.472 to 480 of 2012 filed by the second respondent-Special Tahsildar, Outer Ring Road Project, CMDA, Egmore, Chennai.

3. Learned counsel for the petitioners further contended that some of the land-holders pertaining to the very same land acquisition process,



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namely Fathima Jalal, etc., have filed Civil Appeal Nos.269-270 of 2023 (arising out of SLP (C).Nos.958-959 of 2023) in Diary No.37264/2019) with Civil Appeal No.271 of 2023 (arising out of SLP (C).NO.2855/2020) and the Supreme Court, by order dated 10.01.2023, passed the following order:

"5. We note that in respect of the very same acquisition under the same notification for the same purpose, the matter had been considered by the High Court of Judicature at Madras through the judgment dated 06.08.2015 in A.S.No.524 to 535 of 2011 and also through the judgment dated 13.10.2015 in A.S.No.472 to 480 of 2012 and other connected appeals. The High Court, having considered all aspects of the matter in the said judgments, had approved the market value at Rs.18,000/- per cent which has been taken into consideration in respect of the similarly situated lands. In that view of the matter, in the present facts when it is noted that the acquisition is under the same notification and for the same purpose and in the same vicinity, we see no reason to discard the conclusion which had been reached by the Division Bench of that Court in similar case which has attained finality. Similarly situated lands cannot be treated differently.

6. In that view, the judgment dated 19.03.2018 passed by the High Court of Judicature at Madras, which is impugned herein, whereby the market value was fixed at Rs.9,000/- per cent is not justified. Hence, the appropriate course is to set aside the said judgment and restore the judgment dated 30.07.2011 passed by the Reference Court fixing the market value at Rs.18,000/- per cent.

7. In the tagged appeal bearing Civil Appeal



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No.271 of 2023 in SLP (C) No.2855/2020, the market value was fixed at Rs.10,000/- per cent by the Reference Court and the same has been upheld by the High Court. It is in that view, the appellant(s) are before this Court seeking enhancement. For the very reasons indicated above, the appellant(s) herein, also being the land losers in respect of the same process of acquisition are held entitled to the market value at Rs.18,000/- per cent.

8. The said amount shall be calculated in both the cases with all statutory benefits and the same shall be paid to the appellants/land losers expeditiously.

9. The appeals are disposed of accordingly.

10. Pending application(s), if any, shall stand disposed of."

4. Learned counsel for the petitioners also submitted that subsequently, the petitioners have sent representation(s), dated 27.11.2017 to the respondents/authorities invoking Section 28-A of the Land Acquisition Act, contending that the very same benefits that have been extended to the land-losers who have filed the above Special Leave Petition before the Apex Court, should be extended to them also. Since the respondents have not considered the representation of the petitioners, dated 27.11.2017, under Section 28-A of the Land Acquisition Act, seeking the relief on par with the decision of the Supreme Court stated above to the



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other land-losers, the petitioners are before this Court now for the relief stated supra.

5. Learned Additional Government Pleader appearing for the respondents submitted that since the petitioners have not filed petition/Reference before the Land Tribunal , nor filed appeal, nor the Special Leave Petition before the Supreme Court, they are not entitled to the compensation as sought for by them. The judgments passed by this Court, and the Supreme Court, are judgments-in-personam and those who have approached the Court are only entitled to the benefit of the order of the Court and those who have not approached the Court, are not entitled to the benefits.

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

7. Admittedly, the petitioners' land(s) were acquired and initially, the compensation was awarded and they have also received the compensation. However, some of the land-losers have filed Reference before the Land Acquisition Tribunal/Reference Court/LAOP Court, and



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thereafter, some of the land-losers have also filed Appeal Suit(s) before this Court, as quoted above. Even after passing of the orders by this Court, some of the land-losers have filed Special Leave Petition (SLP), and the relevant portion of the observations/directions given by the Apex Court are extracted supra.

8. In the above context, it is useful to extract Section 28-A of the Land Acquisition Act, 1894, (as amended) as follows:

"Section 28-A: Re-determination of the amount of compensation on the basis of the award of the Court:--(1) Where in an award under this Part, the Court allows to 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 land covered by the same notification under Section 4, sub-section (1) and who are also aggrieved by the 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 amount of compensation payable to them may be re-



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determined on the basis of the amount of compensation awarded by the Court:

Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.

(2) The Collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard and make an award determining the amount of compensation payable to the applicants.

(3) Any person who has not accepted the award under sub-section (2) may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court and the provisions of Sections 18 to 28 shall, so far as may be, apply to such reference as they apply to a reference under Section 18."

Tamil Nadu Amendment:

The Land Acquisition (Tamil Nadu Amendment) Act, 1996 (Act of XVI of 1997):



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In Section 28-A of the principal Act in sub-section (1), after the words "the persons interested in all the other land", the words "which is similar in all respects and merits and is" shall be inserted."

9. Since the land(s) of the petitioners were also acquired under the very same Award and the benefits extended in Award No.3 of 2007, dated 30.10.2007, the compensation of Rs.550/- per cent, was fixed and thereafter, some of the land-owners have filed L.A.O.P.Nos.423, 427 and 428 of 2008 and the Reference Court/IIIrd Additional District Court, Thiruvallur @ Poonamallee, enhanced the compensation from Rs.550/- per cent to Rs.10,000/- per cent. Feeling aggrieved, and not satisfied with the same, some of the land-losers filed First Appeals in Appeal Suit Nos.99, 100 and 101 of 2017 and this Court dismissed the same on 04.04.2017. As against the same, some of the land-losers, namely Fathima Jalal and others filed SLP before the Supreme Court and observing that similarly situated lands cannot be treated differently, the Apex Court enhanced the compensation from Rs.10,000/- per cent to Rs.18,000/- per cent, with all statutory benefits.



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10. The petitioners herein are also covered under the very same Award dated 30.07.2011 challenged before the Supreme Court and their lands are also situated in the same Village, which is covered in Civil Appeal Nos.269 and 270 of 2023 filed before the Supreme Court, which were disposed of on 10.01.2023, and the relevant portion of the judgment of the Supreme Court is extracted above.

11. Thus, for the reasons stated supra, under Section 28-A of the Land Acquisition Act (as amended), the petitioners herein are also entitled to the benefits of the other land-losers and hence, the petitioners herein are entitled to fixation of Rs.18,000/- per cent, as fixed by the Apex Court in the above judgment, apart from other statutory dues which they are entitled to. Accordingly, the same is fixed herein.

12. In view of the foregoing observations/discussion, the present Writ Petition is allowed. The respondents herein are directed to consider the representation of the petitioners, dated 27.11.2017 and pay the compensation in terms of the judgment of the Apex Court stated supra and



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in accordance with the Land Acquisition Act. There shall be no order as to costs.

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CS

To

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P. VELMURUGAN, J

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