



W.P.(MD) No.22435 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.22435 of 2024

1.Selvaraj
2.Josephine
3.Devaraj
4.Cruz Mari
5.R.Kennadi
6.R.Stephen

.. Petitioners

Vs.

The Special Tahsildar
Land Acquisition
Tuticorin.

.. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the respondent to make a reference of Award No.1 of 1992, 06.11.1992 on his file in respect to the land in S.No.126/8B to an extent of 0.46.5 Hectares in Sankaraperi Village, Tuticorin Taluk and District, under Section 18 of the land Acquisition Act, 1894 to the Court of the Subordinate Judge,



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Tuticorin, strictly in compliance with the common order dated 27.09.2004 passed in W.P.No.18462 of 1996, on the file of this Court, within a time frame as may be fixed by this Court.

For Petitioners : Mr.P.Jessi Jeeva Priya

For Respondents : Mr.B.Saravanan
Additional Government Pleader

ORDER

This writ petition is filed for a Mandamus directing the respondent to make a reference of Award No.1 of 1992, dated 06.11.1992 on his file, in respect of the land in S.No.126/8B to an extent of 0.46.5 Hectares in Sankaraperi Village, Tuticorin Taluk and District, under Section 18 of the Land Acquisition Act, 1894, to the Court of the Subordinate Judge, Tuticorin, strictly in compliance with the common order, dated 27.09.2004 passed in W.P.No.18462 of 1996, before this Court.

2.It is the contention of the petitioner that the lands comprised in S.No.126/8A measuring an extent of 0.19.5 hectares and S.No.126/8B



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to an extent of 0.46.5 Hectares situated at Sankaraperi Village, Block-A, Tuticorin Taluk and District, were owned by the petitioner's father late Rayappan and his siblings, who are the petitioners 1 to 4 and the sons of Rayappan are shown as the petitioners 5 and 6. The aforesaid lands were acquired by the Government. The said Rayappan and other co-owners had challenged the said acquisition proceedings unsuccessfully. Thereafter, the respondent had declined to refer the land award No.1 of 1992 dated 06.11.1992 for reference under Section 18 of the Land Acquisition Act for enhancing the compensation. The said Rayappan and the co-owners had moved the writ petitions in W.P.Nos.18461 and 18462 of 1996 before the Principal Seat. By a common order dated 27.09.2004, these writ petitions were disposed of with a direction to approach the respondent to pass appropriate orders. This order was challenged by the said Rayappan and the others by filing a writ appeal in W.A.Nos.3830 and 3831 of 2004. This Court, by order dated 26.10.2005, passed the following order:

“2.Learned counsel for the appellants now states that by communication dated 23.09.2005 he has been advised by the Revenue Divisional Officer, Thoothukudi, to direct the



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appellants to deposit the necessary processing fee of Rs.15/- for making a reference to the Principal Sub Judge, Sub Court, Thoothukudi.

3.In view of the said development, nothing survives in the writ appeals and the writ appeals stand dismissed recording the issuance of the proceedings dated 23.09.2005.”

3. Thereafter, the petitioners, after compliance of the said order, had received notice from the Subordinate Court, Thoothukudi in L.A.O.P.No. 01 of 2007, ultimately by an award dated 06.10.2018, the compensation was enhanced to a sum of Rs.3,000/- per cent with 30% solatium. However, the calculations were in contravention of the provisions contained under the Land Acquisition Act. Since the land comprised in S.No.126/8A measuring an extent of 0.19.5 hectares alone was taken into consideration and award was passed and with reference to the land measuring an extent of 0.46.5 hectares in S.No.126/8B, no award was passed. On seeing the omission, the said Rayappan had immediately moved an application in I.A.No.1 of 2019 before the learned Subordinate Judge, Thoothukudi, to amend the decree and judgment. The said I.A was



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allowed. Thereafter, it appears that after the death of the said Rayappan, the petitioners 5 and 6 have been brought on record and they had filed I.A.No.1 of 2019 for rectifying the mistake, which was contested by the respondents. The said application was dismissed by order dated 28.02.2024. Since the reference in respect of the land in S.No.126/8b measuring an extent of 0.46.5 hectares had not been referred, an award could not be passed with reference to the said land. The mistake is only on the part of the respondent by not referring the earlier order of this Court. Therefore, they made a representation to the respondent. Since there is a noncompliance of earlier order, this writ petition is filed.

4.Heard the learned counsel on either side.

5.Admittedly, in W.P.Nos.18461 and 18462, the learned Subordinate Judge, directed the petitioners that the District Collector would refer the application for enhancement of compensation within 30 days from the date of receipt of the representation from the petitioners. The order was taken up for appeal before the Division Bench of this



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Court in W.A.Nos. 3830 and 3831 of 2004 and the appellants were directed to deposit the necessary processing fee of Rs.15/- for making a reference to the Subordinate Court, Thoothukudi. The writ petitions were filed both in reference to the lands in S.No.126/8A and 126/8B and the orders were pronounced in respect of both the survey numbers. However, the reference appears to have only in respect of one survey number. Therefore, a mandamus is issued to the respondents to consider the petitioner's representation under Section 18 of the Land Acquisition Act, and pass orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

6.With the above direction, this Writ Petition stands allowed. No costs.

23.09.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes
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To

The Special Tahsildar
Land Acquisition
Tuticorin.



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P.T.ASHA, J.

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