



W.A.(MD)No.627 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2024

CORAM:

THE HONOURABLE **MRS.JUSTICE V.BHAVANI SUBBAROYAN**

AND

THE HONOURABLE **MR.JUSTICE K.K. RAMAKRISHNAN**

W.A.(MD)No.627 of 2017

and

C.M.P.(MD)No.5220 of 2017

Indian Rare Earths Ltd.,
Manavalakurichi – 629 252,
Kanyakumari District.

...Appellant

/Vs./

1.K.Ayyana Pillai

2.K. Vijaya Kumar

3.The Special Tahsildar (L.A),
Assistant Collector's Office,
Padmanabhapuram,
Kanyakumari District.

4.District Collector,
Kanyakumari District,
Nagercoil 629 001.

...Respondents



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PRAYER:- Writ Appeal - filed under Clause XV of Letters Patent Act, to allow the writ appeal and to set aside the order passed by this Court made in W.P.(MD)No.14028 of 2010 dated 04.10.2016.

For Appellants : Mr.Krishnan Srinivasan
for Mr.Ramsubramanian Associates
For Respondents : Mr.C.T.Perumal (R1 & R2)
Mr.A.K.Manikkam (R3 & R4)
Special Government Pleader

JUDGMENT

(Judgment of the Court was made by **V.BHAVANI SUBBAROYAN, J.**)

This writ appeal has been filed by a third party, Indian Rare Earths Limited against the order dated 04.10.2016 passed in W.P. (MD)No.14028 of 2010, which was filed seeking for a direction to the official respondents to refer the case of the writ petitioners, who are the respondents 1 and 2 herein, in the common award dated 04.09.1990 to the Court for enhanced compensation.



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2. The case of the writ petitioners is that a government gazette was issued to the appellant herein on 16.11.1988 for acquisition of lands including the land of the writ petitioners for mining of minerals. An award was also passed on 04.09.1990 by fixing the value of the land for a sum of Rs.1,100/- per cent. The writ petitioners made an application for enhancement of compensation. But the official respondents has not referred the case to the Land Acquisition Tribunal for enhancement of compensation. Even though the writ petitioners sent a representation with regard to the same, it has not been done so. Hence the writ petition was filed.

3. The learned Single Judge of this Court issued a direction to the second respondent therein to refer the case of the writ petitioners in the common award dated 04.09.1990 pertaining to RS No.109/5 to the Court concerned under Section 18 of the Land Acquisition Act, 1894 for enhancement of compensation. Challenging the same, the appellant is before this Court.



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4. The learned counsel appearing for the appellant submits that the writ petition has been filed after a period of 20 long years and the application filed under Section 18 of the Land Acquisition Act can be entertained if the same is filed within the stipulated period. The undue delay of 20 years in approaching this Court by invoking Article 226 of the Constitution of India would clearly establish that the writ petitioners have waived their right to claim any enhancement of compensation. Further, the writ petitioners have also received the compensation amount. and there is no proof for sending the representation to the respondents. The learned Single Judge of this Court has passed a cryptic order without assigning any reasoning or finding. Hence, he prayed to allow this writ appeal.

5. The learned counsel appearing for the respondents 1 and 2 / writ petitioners submits that the respondents 1 and 2 have sent the representation immediately, but the officials have not considered the said representation till date. Hence, he seeks for dismissal of this writ appeal.



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6. Heard the rival submissions made on either side and peruse the materials placed before this Court.

7. It is clear from the counter affidavit filed by the third respondent herein that with regard to the dispute among the legal heirs, LACOP petition was filed before the Sub Court, Padmanabhapuram and the writ petitioners have also received the compensation amount without any protest. After a long period of 20 years, they have come forward with the claim of enhancement of compensation. Now, it is well clear from the facts and circumstances of this case that the writ petitioners have approached the authorities for enhancement of compensation after a long period of 20 years.

8. In view of the aforesaid observations, this Court is inclined to allow this writ appeal on the ground of undue delay or laches on the part of the writ petitioners. This writ appeal is allowed and the order of the writ Court dated 04.10.2016 passed in WP(MD)No.14028 of 2010 is



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set aside. No costs. Consequently, connected miscellaneous petition is closed.

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(V.B.S.J.) & (K.K.R.K.J.)
14.03.2024

NCC :Yes/No
Index :Yes/No
Internet :Yes
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WEB CODE: TO:-

- 1.The Special Tahsildar (L.A),
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Kanyakumari District.
- 2.District Collector,
Kanyakumari District,
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and
K.K. RAMAKRISHNAN, J.

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Judgment made in
W.A.(MD)No.627 of 2017

Dated:
14.03.2024