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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.02.2025

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.4642 of 2025

Jayapathy

Vs.

..Petitioner

1. The Special Tahsildar, (Land Acquisition) Unit I
Outer Ring Road Project,
Chennai Metropolitan Development Authorities,
Egmore, Chennai – 600 008
Now having office at
K.M.M.C Building, Koyambedu Market,
Koyambedu, Chennai – 92

2. The Member Secretary,
Chennai Metropolitan Development Authorities,
Egmore, Chennai – 600 008

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Directing the respondents to pay petitioner enhanced compensation amount as awarded by the Honourable High Court Madras Divisional Bench i.e. Rs.25 952/- percent The Special Tahsildar (Land Acquisition) Unit-I outer Ring road Project Chennai Metropolitan Development Authorities M.M.C Building Koyambedu Market Koyambedu Chennai-92 and The member Secretary, Chennai Metropolitan Development Authorities



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Egmore Cehnnai-600 008 are hereby requested to deposit into the Honourable Subordinate Court, Kanchipuram in the above LAOP No.238 of 2009 the difference amount of Rs.25,952/- (Less) Rs.21,870/- equal to Rs.4073/- per cent with interest on solatium is to be given for petitioner acquired of 162 cents. I am also entitled to receive difference amount of Rs.4,073/- percent for the petitioner acquired land in the light of degree and judgement passed by the Hon'ble High Court Madras Division Bench in A.S.No.386 of 2018 batch cased with all other benefits as per Land Acquisition Act.

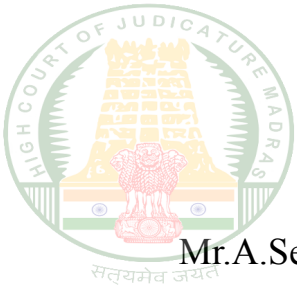
For Petitioner : Mr.J.Ram

For Respondents : Mr.A.Selvendran
Special Government Pleader
for R1
Mr.Akhil Akbar Ali
Standing Counsel for R2

ORDER

This writ petition has been filed for a direction to the respondents to pay enhanced compensation to the petitioner as was awarded by the Division Bench of this Court in AS No.386 of 2018 etc., dated 14.07.2022 based on the representation made by the petitioner on 16.12.2024.

2. Heard Mr.J.Ram, learned counsel for petitioner and



Mr.A.Selvendran, learned Special Government Pleader for 1st respondent and
Mr.Akhil Akbar Ali, learned Standing Counsel for 2nd respondent.

3. The main issue that was raised by the learned counsel for the petitioner is that the lands belonging to the petitioner was acquired under the Land Acquisition Act, 1894 and the award was passed by fixing the compensation at Rs.650 per cent. This amount was received by the petitioner on protest. The case was referred to the Sub Court, Kanchipuram for enhancement of compensation. The batch of cases were decided by the reference court and an award was passed on 10.10.2017. Aggrieved by the same, the land owners filed appeal before this Court in AS No.386 etc., of 2018. The Division Bench of this Court by judgement dated 14.07.2022 enhanced the compensation to Rs.25,952/- per cent.

4. The petitioner made a representation to the respondents seeking for extending the enhanced compensation that was awarded to the neighboring land owners. Since the same was not considered, the present writ petition has been filed before this Court.



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5. The learned Special Government Pleader appearing on behalf of the respondents submitted that the petitioner has made the representation only on 16.12.2024 which is beyond the three months period prescribed under Section 28A of the Act.

6. In reply to the above submission, the learned counsel for the petitioner brought to the notice of this Court the judgment of the Apex Court in ***Narendra and others vs. State of Uttar Pradesh and Others*** reported in **2017 9 SCC 426**. The relevant portions that were relied upon by the learned counsel are extracted hereunder:

6. The matter can be looked into from another angle as well viz. in the light of the spirit contained in Section 28-A of the Act. This provision reads as under:

"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



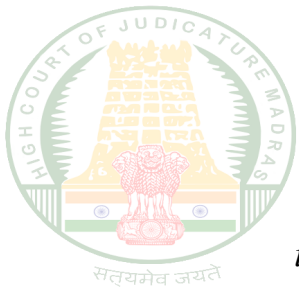
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amount awarded by the Collector under Section 11, the persons interested in all the other land covered by the same notification under Section 4, sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they 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-determined on the basis of the amount of compensation awarded by the court: ”

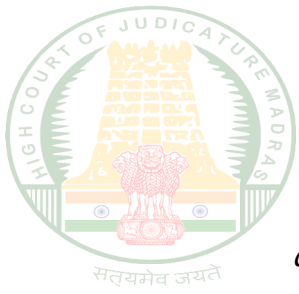
7. It transpires from the bare reading of the aforesaid provision that even in the absence of exemplars and other evidence, higher compensation can be allowed for others whose land was acquired under the same notification.

8. The purpose and objective behind the aforesaid provision is salutary in nature. It is kept in mind that those landowners who are agriculturist in most of the cases, and whose land is acquired for public purpose should get fair compensation. Once a particular rate of compensation is judicially determined, which becomes a fair compensation, benefit thereof is to be given even to those who could not approach the court. It is with this aim the aforesaid provision is



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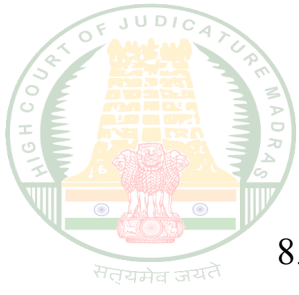
incorporated by the legislature. Once we keep the aforesaid purpose in mind, the mere fact that the compensation which was claimed by some of the villagers was at lesser rate than the compensation which is ultimately determined to be fair compensation, should not be a ground to deny such persons appropriate and fair compensation on the ground that they claimed compensation at a lesser rate. In such cases, strict rule of pleadings are not to be made applicable and rendering substantial justice to the parties has to be the paramount consideration. It is to be kept in mind that in the matter of compulsory acquisition of lands by the Government, the villagers whose land gets acquired are not willing parties. It was not their voluntary act to sell off their land. They were compelled to give the land to the State for public purpose. For this purpose, the consideration which is to be paid to them is also not of their choice. On the contrary, as per the scheme of the Act, the rate at which compensation should be paid to the persons divested of their land is determined by the Land Acquisition Collector. The Scheme further provides that his determination is subject to judicial scrutiny in the form of reference to the District Judge and appeal to the High Court, etc. In order to ensure that the landowners are given proper compensation, the Act provides for "fair compensation". Once such a fair compensation is determined judicially, all landowners whose land was taken



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away by the same notification should become the beneficiary thereof. Not only it is an aspect of good governance, failing to do so would also amount to discrimination by giving different treatment to the persons though identically situated. On technical grounds, like the one adopted by the High Court in the impugned judgment, this fair treatment cannot be denied to them.

7. In the considered view of this Court, Section 28A of the Act prescribes for three months period to seek for enhancement of compensation and the said provision does not provide for condoning the delay by operation of the Limitation Act. However, the judgement of the Apex Court that was relied upon by the learned counsel for the petitioner makes it clear that where the owners of the properties fall within the same acquisition, if the compensation is enhanced, the same has to be extended to the other owners also who did not approach the Court. This is in view of the fact that the Land Acquisition Act is a beneficial legislation. This Court places reliance upon the judgement of the Apex Court and directs the 1st respondent to deal with the representation made by the petitioners on 16.12.2024 and pass final orders, within a period of three months from the date of receipt of copy of this order.



8.This writ petition is disposed of with the above directions. No Costs.

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18.02.2025

Index : Yes/No

Internet : Yes/No

Speaking Order / Non Speaking Order

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2. The Member Secretary,
Chennai Metropolitan Development Authorities,
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N. ANAND VENKATESH, J.

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