



Writ Petition No.6685 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2025

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.6685 of 2025

S.Periyasamy
S/o.Subramaniya Gounder ... Petitioner

Vs.

Land Acquisition Officer and
Special Tahsildar (L.A.),
Salem - Karur Broad Gauge Railway Line,
Project, Collectorate,
Namakkal District. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the respondent to make a reference under Section 18 of the Land Acquisition Act, 1894, to the competent civil Court in respect of petitioner's land measuring 0.01.0 Hecs in S.No.25/6, 0.03.5 Hecs in S.No.26/7 and 0.07.0 Hecs in S.No.26/8 in No.3, Komarapalayam Village, Rasipuram Taluk, Namakkal District forthwith.

For Petitioner : Mr.P.Jagadeesan

For Respondent : Mr.A.Selvendran
Special Government Pleader



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ORDER

This writ petition has been filed seeking issuance of a writ of mandamus directing the respondent to make a reference under Section 18 of the Land Acquisition Act to the competent civil Court wherein the petitioner is seeking for enhancement of compensation with respect to the subject property, which was acquired under the Land Acquisition Act, 1894.

2. Heard Mr.P.Jagadeesan, learned counsel for the petitioner and Mr.A.Selvendran, learned Special Government Pleader appearing for respondent.

3. The lands belonging to the petitioner was acquired for the purpose of Salem-Karur Broad Gauge Railway Line Project. The lands of the petitioner was acquired along with 11 other persons and award was also passed in Award No.10-2002. The petitioner appeared during the award enquiry and agreed to receive the compensation under protest. At that point of time, one Paramasivam was claiming right of pathway over the lands that were acquired and hence, the matter was referred under



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Sections 30 and 31(2) of the Land Acquisition Act, 1894. The said reference was originally numbered as L.A.O.P.No.33 of 2003 and later, it was renumbered as L.A.O.P.No.204 of 2008 before the Sub Court, Rasipuram. The respondent also deposited the compensation amount of Rs.14,780/- that was fixed during the award. While so, the petitioner had also sent separate applications under Section 18(2) of the Land Acquisition Act, 1894, along with other land owners. The applications that were submitted by the other land owners was referred to the concerned Court, whereas, due to the pending dispute of the petitioner, his application was not referred to the reference Court. Ultimately, the reference that was made with respect to the others in L.A.O.P.No.188 to 202 of 2008 was disposed of by the Sub Court, Rasipuram, by judgment dated 18.09.2018 and the compensation amount was enhanced. Insofar as the dispute under Sections 30 and 31(2) of the Land Acquisition Act, 1894, is concerned, L.A.O.P.No.204 of 2008 was disposed of on 18.12.2020. Once again, the petitioner made a representation to the District Collector to refer the matter under Section 18 of the Land Acquisition Act, 1894, to the competent civil Court. Since the same not acted upon, the present writ petition has been filed before this Court seeking for appropriate directions.



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4. It will be relevant to take note of the judgment of the Apex Court in *Banwari and others v. Haryana State Industrial and Infrastructure Development Corporation Limited and another [Civil Appeal No.13348 of 2024, dated 10.12.2024]*. The relevant portion is extracted hereunder:

"24. As already discussed hereinabove, 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 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."

5. It is clear from the above judgment that where the



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compensation is enhanced for other land owners on the reference made under Section 18(1) of the Land Acquisition Act, 1894, the same has to enure in favour of the other land owners, who are covered under the same notification. It was held that Section 28-A of the Land Acquisition Act, 1894, is a beneficial legislation in order to extend the benefit to the similarly placed persons rather than curtailing the benefit conferred by the provision on mere technicalities.

6. In the case in hand, the petitioner, had, in fact, received the award on protest and he had also made an application seeking for referring the matter to the reference Court. However, since there was a dispute regarding the existence of a pathway in the land that was acquired, the dispute was referred under Sections 30 and 31(2) of the Land Acquisition Act, 1894, in L.A.O.P.No.204 of 2008, which came to an end only in the year 2020. Therefore, the petitioner's original application was never acted upon. It is also not in dispute that the petitioner also falls within the same notification and he also participated in the same award proceedings along with the other land owners. Therefore, no useful purpose will be served in making a reference under Section 18(1) of the Land Acquisition Act, 1894 and the District



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Collector can directly consider the claim made by the petitioner under

Section 28-A of the Land Acquisition Act, 1894.

7. In the light of the above discussion, there shall be a direction to the petitioner to submit a fresh representation to the District Collector, Namakkal, seeking for the enhanced compensation under Section 28-A of the Land Acquisition Act, 1894. On such representation being made, it shall be considered in line with the observations made in this order and appropriate orders shall be passed by enhancing the compensation in line with the order passed in L.A.O.P.Nos.188 to 202 of 2008 dated 18.09.2018. The necessary proceedings shall be issued within a period of eight (8) weeks from the date of receipt of representation from the petitioner. A copy of the representation shall also be marked to the respondent herein.

This writ petition is disposed of with the above direction. No costs.

28.02.2025

Neutral Citation: Yes/No
Index: Yes/no
Speaking Order/Non-Speaking Order
gm



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To

- 1.The Land Acquisition Officer and
Special Tahsildar (L.A.),
Salem - Karur Broad Gauge Railway Line,
Project, Collectorate,
Namakkal District.
- 2.The District Collector,
Namakkal.



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N.ANAND VENKATESH, J

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