

W.P.(MD)No.4817 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 21.04.2025

DELIVERED ON : 09.05.2025

CORAM

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.P.(MD)No.4817 of 2016

R.Somasundaram

: Petitioner

Vs.

1.The Commissioner,
Land Reforms,
Commissionerate of Land Reforms,
Ezhilagam, Chepuak,
Chennai – 600 005.

2.The Assistant Commissioner,
Land Reforms,
District Collector Office,
Tiruchirappalli.

3.The District Collector,
Trichy District.

4.The District Collector,
Karur District.



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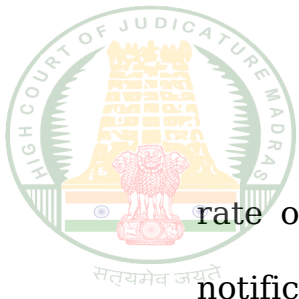
5.The Special Deputy Collector,
Revenue Court,
Trichy.

6.The Revenue Divisional Officer,
Karur,
Karur District.

: Respondents

*[R6 is impleaded vide order dated 08.08.2024
in W.M.P.(MD)No.14508 of 2023]*

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the sixth respondent in Na.Ka.No.A2/616/2016 dated 13.02.2023, published Tamil Nadu Gazette No.13, Chennai dated 29.03.2023 and the consequential proceedings dated 25.05.2023 and quash the same and consequently direct the respondents to return the lands in S.Nos.131, 2010, 2178 Andankoil West Village, Karur Taluk and District measuring 1.96, 1.02 and 0.23 acres respectively and in S.No.470, 472/1 in Illuppai Oorani Village, Kovilpatti Taluk, Tuticorin District, measuring 1.93 and 1.98 acres respectively, all free from encroachments and to pay the compensation to the petitioner for the lands declared surplus and taken from the petitioner at the market value or the guideline whichever is higher along with interest at the



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rate of 18 percent per annum from 18.09.1991, the date of 18(1) notification under 1961 Act and taking over possession of lands till payment or in the alternative pay compensation by redoing the calculation as per Section 50 of the said Act and schedule appended thereto.

[Prayer amended vide court order dated 08.08.2024 in WMP[Md]No. 14516 of 2023 in W.P.(MD)No.4817/2016]

For Petitioner : Mr.VR.Shanmuganathan

For Respondents : Mr.B.Saravanan

Additional Government Pleader

ORDER

The petitioner originally filed the above Writ Petition seeking issuance of a Writ of Mandamus, to direct the respondents to pass revised orders on the land ceiling proceedings and also consider the request of the petitioner for acquiring alternate lands instead of lands situate at Andankovil Village, Manmangalam Taluk, Karur District and Eluppai Oorani Village, Kovilpatti Taluk, Thoothukudi District and also to pay compensation for the lands acquired from the petitioner as per the prevailing market value, considering the petitioner's various representations.

2.Pending the Writ Petition, the petitioner filed W.M.P. (MD)No.14516 of 2023, seeking to amend the prayer in the Writ



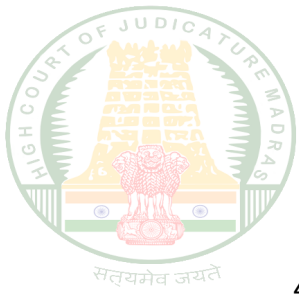
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Petition, to one of a Certiorarified Mandamus, seeking to quash the proceedings of the sixth respondent in Na.Ka.No.A2/616/2016 dated 13.02.2023 and the consequential proceedings dated 29.03.2023 and 25.05.2023 and for consequential direction to return the petitioner's lands. The said amendment petition was allowed by this Court on 08.08.2024.

3.I have heard Mr.VR.Shanmuganathan, learned Counsel for the petitioner and Mr.B.Saravanan, learned Additional Government Pleader appearing for the respondents.

4.The facts of the case are as follows:

4.1.The respondents initiated proceedings under “the Tamil Nadu Land Reforms [Fixation of Ceiling on Land] Act, 1961” [hereinafter referred to as “the Act” for brevity] and lands belonging to the writ petitioner to an extent of 270.48 ½ acres across 18 villages in four districts were declared to be surplus lands. A notification came to be issued under Section 18(1) of the said Act on 18.09.1991 and by virtue of Section 18(3), the possession of the said lands came to vest with the Government, on and from the said date. However, a third party asserted independent right in respect of a portion of the said lands declared as surplus and therefore, a revised notification came to be issued on 22.07.1998.



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4.2.The grievance of the petitioner is that though Section 50 of the Act entitles the petitioner to compensation, no compensation was paid, despite several repeated requests made by the writ petitioner. The petitioner, in fact, also pointed out defects in the revised notification dated 22.07.1998, that some of the lands that were acquired were not fit for cultivation and sought for release of the said lands from the proceedings, after getting alternate lands.

4.3.The petitioner was filed before this Writ Petition before this Court for a Writ of Mandamus. When the above Writ Petition was taken up for final hearing in January, 2023, the petitioner was served with the impugned proceedings dated 13.02.2023, fixing the compensation for the petitioner's lands. The same was also published in the gazette on 29.03.2023. The petitioner has filed his objections within a period of one month ie., on 12.04.2023, after having been served with the proceedings dated 13.02.2023 on 16.03.2023 and again gave his objections insofar as the communication dated 29.03.2023, on 03.05.2023, after being served with a copy of the same on 01.05.2023. However, all the objections of the writ petitioner were rejected by the second respondent vide proceedings dated 25.05.2023 and therefore, the petitioner has amended the original prayer and has now converted the Writ Petition from one as Mandamus to one as Certiorarified Mandamus.



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5.The fourth respondent District Collector, Karur, has filed a counter affidavit in March 2018, before the amendment of the relief was ordered by this Court. In the said counter, it is contended that there has been a delay in payment of compensation due to certain amendment proposals subsequently initiated against the final notification under Section 18(1) of the Act and that the compensation to be paid to the petitioner together with interest due would be settled as per the provisions of the Act, upon approval of the amendment proposal to Section 18(1) notification. It is also stated that the office of the second respondent, Assistant Commissioner of Land Reforms, has been disbanded and entire records were handed over to the office of the Revenue Divisional Officer, Karur and since the Revenue Divisional Officer, Karur has been entrusted with additional tasks and responsibilities, besides his normal work, the matter has been delayed but however, the Revenue Divisional Officer Karur, is finalising pending works on a war-footing basis.

6.The sixth respondent, post amendment of the relief has filed a counter stating that the writ petitioner has not submitted his objections within thirty [30] days from the date of declaration of lands as surplus as required under Section 78 of the Act and hence, the petitioner is not entitled to seek return of surplus lands. It is also contended that in respect of the land in Andankovil Village, Karur District, the pattas have been issued to various third parties who



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have also constructed shops, houses, indoor auditorium and doing agricultural operations. Therefore, after a lapse of several years after the assignment to third parties, lands cannot be returned to the writ petitioner.

7.It is also contended that the Act does not provide for higher compensation, even in the event of compensation not being paid immediately. It is also contended that the compensation arrived at is only based on Appendix III under Section 50(1) of the Act and further, in view of fresh notification being issued on 22.07.1998, the petitioner can claim interest only from 22.07.1998 and not from 18.09.1991, the date of the original notification under Section 18(1) of the Act. It is further contended that the petitioner has right of statutory appeal under Section 78(1) and without exhausting such remedy, the petitioner has approached this Court straightaway and on this ground also, the Writ Petition is liable to be dismissed.

8.Learned Counsel for the petitioner, Mr.VR.Shanmuganathan, would contend that delay cannot be cited as a ground to reject the petitioner's claim, since the impugned proceedings have been passed after a lapse of more than five decades from the date of initiation of the land ceiling proceedings. He would further contend that even in the counter filed by the fourth respondent, the District Collector, Karur, before this Court, as late as on 06.03.2018, the respondents

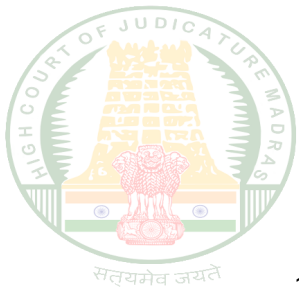


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never denied the entitlement of the petitioner to due compensation, but were only justifying the delay citing difficulties that had been brought to light and that the petitioner would be paid the compensation in terms of the Act. Learned Counsel would therefore, contend that when the respondents themselves were contemplating revision of the notification, the petitioner cannot be found fault with for not raising objections.

9. Learned Counsel for the petitioner would further argue that even if the said proposals as indicated in the counter affidavit dated 06.03.2018 had been dropped, the respondents ought to have put the petitioner on notice that the first revised notification dated 22.07.1998 is going to be adopted, which admittedly has not been done in the instant case. He would further contend that no prior notice or opportunity was given to the petitioner, leave alone any enquiry being conducted before the impugned orders came to be passed.

10. With regard to Section 50 of the Act, learned Counsel for the petitioner would refer to the provisions and Rules related thereto and contend that the calculations would have to be made in terms of Rules to Schedule III as well as Rule 40, 41 and Form 21 and the calculation merely based on the annual valuation of the land in terms of Rule 3 of Schedule III alone is bad in the eye of law.



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11.According to the learned Counsel for the petitioner, the calculation adopted by the respondents is **Kist x 20 times + Rs.5 per acre**, which is not in consonance with Rules 8, 40 and 41 and Form 21. According to the learned Counsel for the petitioner, the correct calculation ought to have been **20 times [Kist + Rs.9 per acre] x total acres**.

12.As regard interest, learned Counsel for the petitioner would submit that interest at the rate of 4% ought to be from the date of original notification under Section 18(1) of the Act ie., 18.09.1991 and the delay occasioned on the part of the respondents cannot be an excuse to deny the interest from 1991 and contend that interest will be paid only from 1998, when the revised notification was issued on 22.07.1998.

13.As regard the release of lands, he would contend that Section 3(22) of the Act, defines “land” to be agricultural lands which is used or being capable of agricultural lands and therefore, he would submit that when certain lands are not cultivable land, they would fall outside the purview of definition of “land” under Section 3(22) and therefore, the petitioner is entitled to release of the said lands that are not fit for cultivation. Learned Counsel for the petitioner would further state that petitioner was deprived of



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possession even in the year 1991 and has not been paid any compensation whatsoever and he would contend that the compensation fixed at Rs.89,751/- is shocking and wholly arbitrary and unfair.

14. Learned Counsel would also rely on the following decisions:

(i) The decision of this Court in ***Lakshmi Ammal and another Vs. The Assistant Commissioner, Reforms and others, reported in (1991) 1 MLJ 436***, where this Court deciding whether adequate compensation was paid under the Act, taking note of the fact situation in the said case that final compensation was published on 21.08.1985, after 16 years after possession was taken over by the Government, held that rules have to be understood in a proper manner so that person who is deprived of his property gets compensation with interest thereon, contemplated by the Act and the Rules. Further, relying on the decision of the Hon'ble Supreme Court in ***Hirachand Kothari Vs. State of Rajasthan, reported in AIR 1985 SC 998***, this Court directed payment of interest at 11% p.a. from the last date of compensation being payable under 10 annual installments in terms of Rules;

(ii) The decision of the Hon'ble Supreme Court in ***C.K.Thakker & others Vs. State of Bihar and others reported in 2007 11 SCC 447***, where the Hon'ble Supreme Court held that



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failure to issue consequential final statement by the authorities cannot prejudice the land owners and no person can be permitted to take undue or unfair advantage of his own wrong to gain favourable interpretation of law;

(iii) The decision of the Hon'ble Supreme Court in ***Pitambar Singh & others Vs. State of Bihar & others***, reported in **2010 13 SCC 453**, where the Hon'ble Supreme Court dealing with a similar enactment prevailing in State of Bihar, finding that there was inaction on the part of the State Government and no fault on the part of the land owner, held that it would be patently unjust to give a premium to the State Government on its inaction.

15.Per contra, learned Additional Government Pleader Mr.B.Saravanan, would submit that no doubt, the notification was issued under Section 18(1) of the Act on 18.09.1991. However, the said notification was subsequently cancelled and fresh notification was published in the gazette on 22.07.1998 and only under the said notification dated 22.07.1998, the lands of the petitioner were declared as surplus. Subsequently, it came to the notice of the authorities that lands situate in S.F.No.131 of Andankovil Village and S.F.Nos.470 and 472/1 of Elluppai Oorani Village, Thoothukudi District, were not cultivable lands and therefore, there arose a necessity for modifying Section 18(1) notification dated 22.07.1998



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and as a consequence, the authorities were taking steps to identify alternate lands.

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16.In the meantime, it also came to light that certain lands were omitted in the final notification and in order to rectify the said error proposals were sent to the Government for necessary amendment. In the mean time, there was an overhaul of the authorities functioning under the Act and the office of the Assistant Commissioner of Land Reforms was disbanded with effect from 14.12.2015 and the entire work of the Assistant Commissioner of Land Reforms were entrusted to the respective Revenue Divisional Officers. Pending the Writ Petition, learned Additional Government Pleader would submit that in and by proceedings dated 13.02.2023, the compensation amount has been determined at Rs.1,77,505/-, payable from 22.07.1998, together with interest at 4% p.a.

17.He would further submit that the petitioner's request for higher compensation and release of lands was rightly rejected, since already assignments have been issued to various third parties. He would further justify the compensation arrived at by applying the provisions of Section 50(1) of Schedule III of the Act, requiring compensation to be 20 times the assessment value of the lands. He would further submit that even the request for return of the lands to an extent of 10.31 acres was time barred as the Act requires the land



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owner to submit objections within 30 days from the date of publication of the notification, by which, surplus lands have been declared. Lastly, he would contend that under Section 78, statutory appeal remedy to the Government was available and the petitioner having not availed of the same, is not entitled to any relief.

18. Having considered the submissions of the learned Counsel on either side, dealing with the preliminary objections taken by the learned Additional Government Pleader with regard to availability of a statutory appeal remedy under Section 78 of the Act, no doubt the petitioner had an option to file an appeal under Section 78(1) of the Act before the Government within 90 days from the date of the decision, however, in the facts of the present case, as could be seen from the trajectory of the proceedings, initially the petitioner only sought for issuance of a Writ of Mandamus for compensation to be paid. However, pending proceedings, the respondents have proceeded to determine the compensation payable to the petitioner and therefore, the petitioner has amended the prayer and challenged the impugned proceedings by way of seeking issuance of Certiorarified Mandamus.

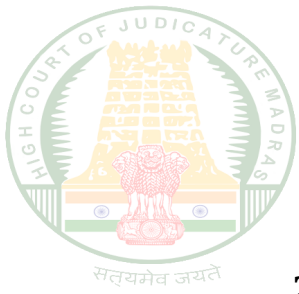
19. This Court has entertained the amendment petition and permitted the petitioner to amend the relief. In view of the above, it would be highly unfair and inequitable to direct the petitioner to



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work out his remedy by preferring a statutory appeal or declining even the hearing of the Writ Petition on the ground that the petitioner has not availed of the alternate effective statutory remedy available under the Act. Therefore, the preliminary objection of the learned Additional Government Pleader regarding maintainability of the Writ Petition is rejected.

20.Coming to the challenge to the orders passed by the authorities, with regard to release of lands sought for by the petitioner, admittedly, the petitioner was put on notice about declaration of surplus lands even under the first notification dated on 18.09.1991 and subsequently, the said notification was cancelled and fresh revised notification was issued on 22.07.1998. The petitioner acknowledges both these notifications in the affidavit filed in support of the Writ Petition. Therefore, the petitioner cannot take advantage of the non-payment of the compensation to the petitioner all these years and the reasons for the same being cited by the respondents as to proceedings for amendment of the said notification dated 22.07.1998 being under consideration and claim release of lands. If at all the petitioner had any valid grounds to seek release of lands, he ought to have made an application within 30 days atleast from the revised notification dated 22.07.1998. Therefore, the petitioner is not entitled to release of 10.31 acres as sought for.



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21.The next point that falls for consideration is whether the compensation determined by the respondents is fair, proper and in consonance with the provisions of the Act and Rules. Section 50(1) of the Tamil Nadu Land Reforms [Fixation of Ceiling on Land] Act, 1961, is extracted herein for easy reference:

“Section 50.Determination of amount for land acquired by the Government – (1) Every person whose right, title or interest in any land is acquired by the Government under Chapter II shall be paid an amount according to the rate specified in Schedule III, as in force on the date of acquisition of such right, title or interest in any such land.

(2).

(3)(a) The authorized officer shall determine the amount at the rate specified in Schedule III, and prepare a draft assessment roll in such manner and containing such particulars, as may be prescribed.....”

22.Schedule III to Section 50 of the Act reads as under:

“1. The amount payable to any person under Section 50 in respect of any land (other than the land specified in Part II) acquired by the Government under this Act shall be determined in the manner hereinafter in this part specified.

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2. *The annual value of the land shall be determined in the first instance.*

3. *The annual value of the land shall be --*

(i) in the case of registered wet, dry or manavari and (other than dry or manavari land irrigated by direct flow or lift from any Government or private source of irrigation), twenty times the land revenue on the land;

4. *The amount payable for the land other than forest land acquired by the Government under this Act shall be determined in accordance with the following scale, namely:-*

(i) For the first sum of Rs.3,000 or any portion thereof of the annual value of the land, ten times such sum or portion;

(ii) For the next sum of Rs.3,000 or any portion thereof of the annual value of the land, nine times such sum or portion;

(iii) For the next sum of Rs.3,000/- or any portion thereof of the annual value of the land eight times such sum or portion;

23.Section 55(2) of the Act is extracted hereunder:

“55(2) *The bonds shall be issued on such terms and carry such rate of interest as may be prescribed. The interests shall be paid -*



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(i) in the case of any land held by any person referred to in clause (a) or (b) of sub-section (5) of section 18 with effect from the date of the publication of the notification under sub-section (1) of section 18; and

(ii) in any other case, with effect from the date of taking possession of the land under sub-section (4) of Section 18.”

24.With regard to the compensation amount, the respondents have proceeded to calculate the compensation amount at flat 20 times the land revenue at Rs.512.51/- and arrived at Rs.10,250.18/- and applying the mandate of Schedule III 4(i) to (iii), total compensation has been fixed at Rs.89,751.26/-.

25.However, as rightly contended by the learned Counsel for the petitioner, compensation even in terms of Section 50, which entitles every person, whose lands are acquired by the Government, to be paid compensation according to the rates specified in Schedule III of the Act, requires the authorised officer to determine the amount and prepare a draft assessment roll and have it published and also issue notice inviting objections from the land owners. The objections of the aggrieved parties shall be considered, after giving reasonable opportunity of being heard and also adducing evidence, before finally disposing of the objections and the assessment roll



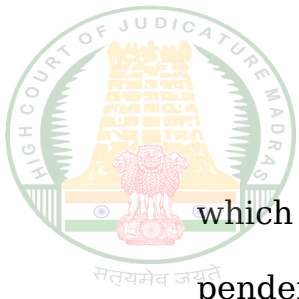
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which is published finally under sub-section (5) or sub-section (6) of Section 50, shall alone be final.

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26.Under Section 55, the amount that is finally determined as payable under Section 50 shall be paid either in cash or in bond, or partly cash and partly bond, as the Government may deem fit and in terms of Section 55(2), interest is payable from the date of publication of Notification under Section 18(1) in the case of lands held by any person falling within clauses (a) or (b) of sub-section 5 of Section 18 or from the date of taking possession under Section 18(4) of the Act. Therefore, in the light of the above, it is clear that the authorised office will have to determine the compensation amount and provide an opportunity to the aggrieved land owner and after considering the objections, if any, of such land owner alone, the compensation can be determined finally.

27.In the present case, admittedly, even according to the respondents, the sixth respondent in and by proceedings that are impugned in the present Writ Petition, only by proceedings dated 13.02.2023, the compensation payable to the petitioner has been determined as Rs.1,77,505/- There is no opportunity given to the petitioner as contemplated under the provisions of the Act, which have been elaborately discussed hereinabove. The impugned proceedings merely proceed on the representations of the petitioner

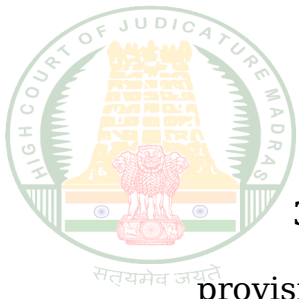


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which were prior to the filing of the Writ Petition and during pendency of the Writ Petition. Therefore, there is clear deprivation of fair opportunity to the petitioner to give his objections for the proposed value of compensation determined, which opportunity contemplated under Section 50 of the Act itself. Mere fact that the petitioner's objections that have been given subsequent to such determination being rejected on the ground of delay is of no consequence.

28.Further I also find favour with the submissions of the learned Counsel for the petitioner that the calculation adopted by the respondents is also not in consonance with the provisions of the Act. It is not only 20 times the annual value that alone is to be factored, but also Cess x 20 times and also the annual income that accrues from the said lands which also has to be taken into account. Therefore, the calculation arrived at by the respondents is clearly defective and faulty and deserves to be set aside, moreso, when the mandate of Section 50 of the Act has not been complied with as well, even with regard to interest.

29.Rule 4 of "the Tamil Nadu Land Reforms [Payment for Surplus Land] Rules, 1966" [hereinafter referred to as "the Rules" for brevity] entitles the land owners to be paid interest at the rate of 4% p.a. from the dates specified in Sub-section (2) of Section 55.

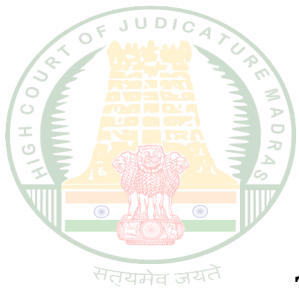


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30. Learned Additional Government Pleader has relied on these provisions especially Section 55(2) of the Act and Rule 4 of the Rules to contend that the petitioner is entitled to interest of only 4% from the date of notification namely 22.07.1998, neither for any earlier period of time nor at any higher rate.

31. However, it is the contention of the learned Counsel for the petitioner that mere reliance on Rule 4 or Schedule III r/w. Section 50(1) alone is not the proper approach to determine compensation. According the learned Counsel for the petitioner, though Section 50 of the Act provides for compensation to be paid on the rates specified in Schedule III, sub-section (2) of Section 50, objection can be made within thirty [30] days from the date of publication of notification under Section 18(1) and Rule 2 provides for taking annual value of the land as the determinative factor at the first instance. Rule 8 provides for the amount payable as an aggregate of the amount calculated under preceding Rules 4, 5 and 7 in respect of lands that are not forest lands. Rule 40 requires every claim for compensation under Section 50 to be in Form 21 and Rule 41(1) provides for fixation of rates as per paragraph No.4 of Part I of Schedule III and Sub-Rule (2) provides the procedure for fixing the value of crops standing in the lands. Further, Form 21 provides not merely land revenue but also aggregate of the land revenue, value of the crops as well, as net average annual income from the land.

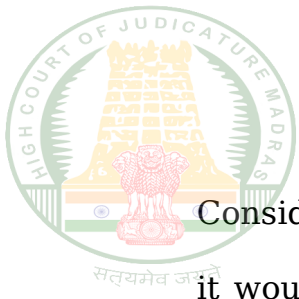


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32.In short, it is the contention of Mr.VR.Shanmuganathan that none of the statutory provisions have been followed in determining the compensation at Rs.1,89,751.26/-. Of course, this argument is made by the learned Counsel for the petitioner without prejudice to the unjust action on the part of the authorities to fix compensation for the lands acquired in the year 1998, after enormous delay, in the year 2023.

33.With regard to the value of the lands, whether it has to be on the basis of values that were prevailing on the date of notification or as to whether it should be on the market value or any other fair and reasonable rate, as held by this Court in ***Lakshmi Ammal's*** case supra, admittedly, the petitioner cannot be faulted for the delay in even determining the compensation at the hands of the respondents. It is not the case of the respondents even in the counter affidavit that the compensation was fixed and offered to the petitioner within reasonable time from the date of atleast the second notification ie., 22.07.1998. It is borne out of records that only in 2023, the authorities have fixed the compensation on the basis of the values prevailing in the year 1998. Therefore, as held by this Court in ***Lakshmi Ammal's*** case, it would be unfair to entitle the petitioner to only 4% interest. Even in 1991, in ***Lakshmi Ammal's*** case, this Court ordered payment of interest at the rate of 11%.



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Considering the rates of inflation and prevailing economic scenario, it would be appropriate to direct the respondents to pay interest at the rate of 18%. The sub-issue that requires an answer is, as to from which date the payment of interest has to be made. It is the contention of the respondents that the interest should be paid only from the second notification dated 22.07.1998 and not from 18.09.1991. However, admittedly, the lands of the petitioner have been taken over even in the year 1991 and therefore, when the respondents on their own accord chose to cancel the 1991 notification and proceeded to issue 1998 notification, the petitioner cannot be made to suffer for the delay or mistakes committed by the respondents.

34.In view of the above, the petitioner is certainly entitled to interest at the rate of 18% from the first notification dated 18.09.1991.

35.In the light of the above, I am inclined to partly allow the Writ Petition and the Writ Petition is disposed of, in the following manner:

(i) The prayer insofar as release of lands to an extent of 10.31 acres in S.Nos.131, 2010, 2178 in Andankoil West Village, Karur Taluk and District and in S.Nos.470, 472/1 in Illuppai Oorani Village,



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Kovilpatti Taluk, Tuticorin District, is rejected.

(ii) The proceedings of the sixth respondent dated 13.02.2023 and consequential proceedings dated 29.03.2023 and 25.05.2023, are set aside and the matter is remitted to the sixth respondent to conduct an enquiry, after giving a fair opportunity to the petitioner with regard to the compensation payable to the petitioner in terms of Section 50 of the Act r/w. Rules 2, 3, 8, 40, 41 of Schedule III, Rules 40 and 41 and Form 21.

(iii) With regard to interest and date from which interest is payable, I have already found that the petitioner is entitled to interest at 18% p.a. from 18.09.1991 onwards. Therefore, the compensation to be determined by the respondents in terms of Clause (2) supra shall be payable together with interest at 18% p.a. from 18.09.1991.

There shall be no order as to costs.

09.05.2025

Index :Yes / No

Internet : Yes / No

NCC : Yes/No

MR



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To

1.The Commissioner,
Land Reforms,
Commissionerate of Land Reforms,
Ezhilagam, Chepuak,
Chennai – 600 005.

2.The Assistant Commissioner,
Land Reforms,
District Collector Office,
Tiruchirappalli.

3.The District Collector,
Trichy District.

4.The District Collector,
Karur District.

5.The Special Deputy Collector,
Revenue Court,
Trichy.

6.The Revenue Divisional Officer,
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