

**(1994) 09 MAD CK 0064**

**In the Madras High Court**

**Case No :** Writ Petition No"s. 14000 to 14022 of 1994

Jayaraman and Others

APPELLANT

Vs

The Special Tahsildar (L.A.) Krishna Water Supply Project

RESPONDENT

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**Date of Decision :** 23-09-1994

**Acts Referred:**

Land Acquisition Act, 1894 — Section 12, 18

**Citation :** (1994) 09 MAD CK 0064

**Hon'ble Judges :** Shivaraj Patil, J

**Bench :** Single Bench

**Advocate :** G. Jeremiah, for the Appellant; V.P. Sengottuvel, Government Advocate, for the Respondent

**Final Decision :** Dismissed

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## Judgement

Shivaraj Patil, J.—Heard the Learned Counsel for the Petitioners as well as the learned Government Advocate for the Respondent in all these petitions. The Petitioners in these writ petitions have sought for a Writ of Mandamus directing the Respondent to make Reference u/s 18 of the Land Acquisition Act in respect of their lands, to the Court of the learned Subordinate Judge. The petitioned state that in the year 1987, the Respondent issued notice u/s 12 of the Act calling upon the Petitioners to appear for award enquiry; they participated in the award enquiry proceedings along with several land owners; they sought for enhanced compensation during the award enquiry in their statement recorded during the enquiry. They sought for more compensation during the enquiry. They further state that they gave written representations to the Respondent on the same day, i.e. on 30.11.1987, the day on which the awards were passed, stating that the amount of compensation awarded was too low having regard to the value of the lands and as such the Reference may be made to the Civil Court u/s 18 of the Land Acquisition Act. It is further stated by the Petitioners that they were under the impression that the Respondent has made Reference to Civil Court u/s 18 of the Act. However, to their great shock and surprise, they came to

know that the Respondent had referred the cases of 100 claimants only to the Civil Court, who all had specifically requested for reference. The Petitioners further state that the perusal of the records of the Respondent will clearly show that the Petitioners had submitted written representation seeking Reference to Civil Court. Since the Respondent has not made Reference to the Civil Court as requested, although sufficient time has elapsed, these writ petitions are presented.

2. Counter affidavit is filed on behalf of the Respondent. Paragraphs 8 and 10 of the counter affidavit filed in these writ petitions, read thus

8. With regard to para 4, I state that notices have been issued to all the land owners and other interested persons to appear for the award enquiry. All the land owners and interested persons including the writ Petitioners have appeared for the enquiry. During the award enquiry, they have sought for Rs. 300/- to Rs. 950/- per cent as compensation without adducing any documentary evidences. It is also not at all correct that, all land owners had given a written representation to the Respondent, seeking a Reference to the Court as the compensation of Rs. 81.11 per cent awarded by the Respondent was too low and only 42 persons had given their written applications for enhancement of compensation and they were referred to Sub Court, Tiruvallur u/s 18 of the Land Acquisition Act. It is a fact that statements were recorded from all the land owners, interested persons or their representatives. During the time of award enquiry, only they have claimed compensation at Rs. 300/- to 950/- per cent but none of the writ Petitioners have given any written applications for enhanced compensation.

10. As regards para 6, it is not all correct to state that all the claimants have given written applications seeking remedy of enhanced compensation. Instead they have filed the writ petitions after the lapse of nearly 7 years since the award was passed on 30.11.87 and this is clearly an after-thought going after hearing the enhancement of compensation awarded by the Sub Court, Tiruvallur, in LAOP No. 158/88 etc. from Rs. 81.11 to 1300/-. The Respondent has also performed his duties as per Land Acquisition Act with regard to the references made to civil court for enhanced compensation by referring all the 42 applications received by him promptly.

Shri Jeremiah, the Learned Counsel for the Petitioners emphatically submitted that the Petitioners, during the award enquiry, had said that they seek for more compensation; their statements were recorded on 30.11.87; on the same day, Petitioners made representations seeking Reference for the enhanced compensation to the civil Court u/s 18 of the Act; the Petitioners were under the impression all along that the Respondent has made Reference to the civil Court u/s 18 of the Act. In this regard, he pointed out to paragraphs 4 and 5 of the affidavit in W.P. No. 14000/94, which read thus:

4. I state that in the year 1987 the Respondent, issued me with a notice u/s 12 of the Act calling upon me to appear for the Award enquiry. I state that I

participated in the Award along with several other land owners. I state that all of us had sought enhanced compensation. I state that on 30.11.87, the Respondent recorded my statement during the award enquiry. I state that I had sought a sum of Rs. 900/- per cent as enhanced compensation. I state that my statement was recorded by the Respondent. I state that I had also given a written representation to the Respondent on the same date stating that the compensation awarded by the Respondent was too low and stated that the property was very valuable and that a Reference should be made to the Civil Court u/s 18 of the Land Acquisition Act. In like manner, all the land owners of the village had given similar representations. We had also submitted a similar representations in the month of December 1987.

5. I most respectfully submit that we were all under the impressions that Reference to the civil court had been made u/s 18 of the Land Acquisition Act. However, to our great shock and surprise, we have now come to know that the Respondent has only referred the claim of the land owner to the Civil Court out of nearly hundred claimants who had all specifically requested for a Reference.

He submitted that the similar averments are made by the other Petitioners also. When specifically asked whether there is anything to show that the Petitioners made applications seeking Reference, the Learned Counsel for the Petitioners fairly submitted that there is nothing to show that they made applications for Reference. He, however, added that the applications were made by the Petitioners and at any rate, the Petitioners sought for enhancement of compensation, which could be found in the statements made by them.

3. The learned Government Advocate, on the basis of the counter affidavit filed, submitted that in respect of the claims of those persons who all had made applications for Reference in respect of their cases References were made to the civil Court for enhancement of compensation. He pointed out the cases of such 42 claimants, were referred to the civil court for enhancement. He also submitted on the basis of the records that the Petitioners as a matter of fact, did not make applications as contended by them. He also submitted that there is nothing in the records of the Respondent to show that the Petitioners made applications for the enhancement of compensation to make Reference to the civil Court after the award was passed. He argued that the Petitioners seeking more compensation during the award enquiry has no relevance in the matter of making reference u/s 18 of the Act. He also submitted that the Petitioners, after a lapse of 7 years from the date of passing the awards, cannot now seek for Writ of Mandamus for making reference u/s 18 of the Act.

4. The Learned Counsel for the Petitioners submitted that the copy of the award was not furnished to the Petitioners and without, such copy, they could not have sought for enhancement of compensation. Whether the copies of the awards were furnished or not, is a matter to be examined separately. If the Petitioners are not given the copies of the awards as a matter of fact, it is open to them to take appropriate steps to get copies of the award and to make necessary claims

in appropriate forum, if they are entitled to, in accordance with law, for enhancement of compensation. The Learned Counsel for the Petitioner submitted that even on the oral request of the Petitioners, Reference, can be made for enhancement of the compensation. I am not inclined to accept this submission for two reasons. One, it is not the case pleaded by the Petitioners that they made oral request for the enhancement of the compensation after the awards were passed. Thus specific averment is that they made representation to the Respondent and their applications were not considered and references were not made u/s 18 of the Act. Secondly, there is nothing to show that such representations were made after passing the awards. If representations were made during the course of the award enquiry, that is of no consequence for the purpose of reference. Further, if the Petitioners were really interested in the enhancement of compensation, in the ordinary course, they would have certainly moved the Court early and they would not have waited for a long period of almost 7 years to approach this Court more so having received the amount of compensation in the months of December 1987 and January 1988. The receipt of the amount of compensation is not disputed by the Learned Counsel for the Petitioners. There is nothing to show that even the amount of compensation was received under protest.

5. Under the circumstances and having regard to what is stated above, I do not find any merit in these writ petitions and in my view the Writ of Mandamus as sought for, cannot be granted, Accordingly, these writ petitions are dismissed.