

(2014) 09 MAD CK 0377

In the Madras High Court

Case No : W.P. (MD) Nos. 15757, 15758 and 15759 of 2014

K. Palanichamy Naicker

APPELLANT

Vs

The Land Acquisition Officer

RESPONDENT

Date of Decision : 24-09-2014

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 28A

Citation : (2014) 09 MAD CK 0377

Hon'ble Judges : T.S. Sivagnanam, J

Bench : Single Bench

Judgement

T.S. Sivagnanam, J.—The petitioners in all these writ petitions seek for issuance of a Writ of Mandamus to dispose of the petition dated 22.06.2013 made under Section 28-A of the Land Acquisition Act for the purpose of redetermining the compensation based on the judgment and decree dated 26.04.2013 in LAOP No. 1 of 2011 on the file of the Sub-Court, Sankarankoil, which was confirmed by this Court in A.S. No. 131 of 2013 dated 16.12.2013.

2. The lands owned by the petitioners were the subject matter of land acquisition proceedings and compensation was awarded and an award was passed. The case of the petitioners is that they accepted the compensation under protest. However, in their cases alone, reference was not made under Section 18 of the Land Acquisition Act. In respect of other land owners whose lands were also acquired for the very same purpose, reference was made to the Sub-Court, Sankarankoil and compensation was redetermined and enhanced compensation was awarded in LAOP No. 1 of 2011. The Government challenged the said order passed by the Reference Court, by filing A.S. No. 131 of 2013 which was dismissed by this Court.

3. Immediately on coming to know of the judgment of the Sub-Court, Sankarankoil in LAOP No. 1 of 2011, the petitioners have submitted a petition under Section 28-A of the Land Acquisition Act, but the same was not considered. After the disposal of the appeal filed in A.S. No. 131 of 2013 dated

16.12.2013, the petitioners submitted reminders on 01.09.2014. Since the same was not considered, they have come up before this Court with these writ petitions.

4. The learned Government Advocate, on instructions from the Revenue Divisional Officer, submitted that the application made by the petitioners under Section 28-A of the Land Acquisition Act is pending consideration before the authorities.

5. In the light of the above, there will be a direction to the respondent to consider the petitioners' request made under Section 28-A of the Land Acquisition Act, by taking note of the contention that the petitioners accepted the compensation under protest, as awarded by the Land Acquisition Officer, and thereafter proceed to consider the petitioners' application on merits and in accordance with law. For the purpose of passing orders, the respondent is directed to call for records from the Special Tahsildar (Land Acquisition), who passed the award, and peruse the statements given by the petitioners that they have accepted the compensation under protest. It is settled legal position that if the compensation has been accepted under protest, the authority was bound to refer the matter under Section 18 of the Land Acquisition Act. If no such reference has been made in the case of the petitioners alone, then the petitioners are entitled to seek remedy under Section 28-A of the Act. Bearing this legal principle in mind, the respondent is directed to pass orders within a period of three months from the date of receipt of a copy of this order.

6. The writ petitions are disposed of accordingly. No costs.