
(2015) 08 MAD CK 0233

In the Madras High Court

Case No : Writ Petition (MD) No. 13088 of 2014

S. Varadharajan and Others

APPELLANT

Vs

The Revenue Divisional Officer

RESPONDENT

Date of Decision : 28-08-2015

Acts Referred:

Constitution of India, 1950 — Article 226

Land Acquisition Act, 1894 — Section 18, 28-A, 30, 6

Citation : (2015) 08 MAD CK 0233

Hon'ble Judges : R. Subbiah, J

Bench : Single Bench

Advocate : A. Sivaji, for the Appellant; S. Kumar, AGP, Advocates for the Respondent

Final Decision : Disposed off

Judgement

R. Subbiah, J—This Writ Petition has been filed praying for a Writ of Certiorarified Mandamus to call for the records of the respondent in Na.Ka.No. AA2/3307/2014 dated 04.07.2014, quash the same and consequently direct the respondent to disburse the compensation amount at Rs. 1,200/-per cent together with all the statutory benefits due to the petitioners forthwith and pass further orders. By the said order, the respondent herein had rejected the claim for enhanced compensation to the petitioners.

2. The case of the petitioners is that the lands belonging to them were covered by the notifications issued under the Land Acquisition Act, 1894 for a public purpose, namely, construction of Master plan complex at Virudhunagar by issuing 4(1) notification under the said Act. Followed by this, Section 6 declarations were also issued. The acquisition proceedings were taken on behalf of the Government by the then Land Acquisition Officer viz Special Tahsildar, Master Plan Complex, Virudhunagar.

2.1. While the situation stood thus, for acquiring the lands in question, the then Tahsildar fixed compensation of Rs. 30/- per cent for the dry land and Rs. 83.50

per cent for the wet lands. The said Land Acquisition Officer while passing the award made a reference under Section 30 of the Land Acquisition Act 1894 in respect of S.No. 155 for an extent of 3.20.5 hectares. Section 30 reference was numbered as L.A.O.P. No. 103 of 1998 on the file of the Sub-Court, Ramanathapuram at Madurai. The Reference Court after taking note of the materials on record was pleased to apportion the compensation among claimants 1 to 3 at the rate of 3/4th share and the fourth claimant, the balance 1/4 share. This Reference Court's order dated 22.08.1999 was taken up on appeal by the fourth claimant viz., Alagarsamy Naicker by filing A.S. No. 56 of 1990 before the Principal Bench of this Court. By a judgment dated 03.04.2001, the above-said appeal came to be dismissed by confirming the reference Court's order of apportionment. Necessary copy application was made ready on 20.07.2001. On receipt of the said judgment in A.S. No. 56 of 1990, on 01.08.2001, a representation was made by all the three claimants seeking for reference for enhancement of compensation by enclosing a copy of the said A.S. No. 56 of 1990. It is further averred in the affidavit that if the time taken for getting the order copy is excluded, the claim for reference is in time. In this connection, representations were made by the respective parties seeking for the relief stated therein. Further, in view of the ratio laid down in the reported decision of the Principal Bench of this Court reported in *Selvam and Others Vs. Revenue Divisional Officer, Erode*, (2014) 2 MLJ 30, the claim cannot be rejected on the ground of delay. On account of the Section 30 reference, the claimants also cannot maintain Section 18 reference application before the respondent. The petitioners claim are also valid and enforceable in view of the latest decision of the apex Court reported in AIR 2014 SC 845. Further, the Division Bench of this Court had fixed Rs. 1,200/- per cent together with the statutory benefits vide A.S. No. 840 of 1987 etc batch dated 29.04.2002, covered by the same Scheme in the same village. On account of this fact also, the petitioners are entitled to the same benefits. The object and purpose for which Section 28-A was introduced was taken note of by the Supreme Court and the relief was granted. Therefore, the petitioners are before this Court under Article 226 of the Constitution of India praying to set aside the order of the respondent dated 04.07.2014.

3. The learned counsel for the petitioners submitted that when the respondent had extended the benefits to the land owners in A.S. No. 840 of 1987, like that of the petitioners herein, there is no jurisdiction in excluding the petitioners alone for giving the very same compensation to them just because they did not approach this Court. When the facts are undisputed, all litigants cannot be expected to approach this Court and get an order in favour of them. The respondent failed to see that in spite of their ordeal, attempts to receive the enhanced compensation as per the Reference Court award had become futile. The respondent continues to state one reason after another in order to thwart the genuine claim of the petitioners. He further draws the attention of this Court that as per Section 28-A of the Land Acquisition Act, the petitioners are entitled

to get the enhanced compensation and therefore, the respondent cannot wriggle out from dispensing the enhanced compensation to the petitioners.

4. In support of his contentions, he placed the following judgments of the Apex Court as well as this Court:-

(i) Premji Nathu Vs. State of Gujarat and Another, AIR 2012 SC 1624 : (2012) 114 CLT 840 : (2012) 3 RCR(Civil) 31 : (2012) 4 SCALE 235 : (2012) 5 SCC 250 : (2012) AIRSCW 2382 : (2012) 2 Supreme 686 .

(ii) Selvam and Others Vs. Revenue Divisional Officer, Erode, (2014) 2 MLJ 30 .

5. The Additional Govt. Pleader through his counter affidavit submitted that since the acquisition took place in the year 1985, it is the duty of the petitioners to provide the necessary details to the respondent. There are no documents available in the office of the respondent relating to the claim of the petitioners. In any event, there is a huge and inordinate delay in approaching this Court. Hence, he prayed for the dismissal of this Writ Petition.

6. I heard the submissions made on either side and perused the materials available on record.

7. There is no doubt that in the case on hand the conduct of the petitioners can be seen that the petitioners appeared to have gone into deep slumber for years together. Pausing for a moment, though the petitioners plead that their neighbours got enhanced compensation way back in the year 2002 itself, by citing the same reason, at this distant point of time, this Court could not issue any positive direction to the petitioners herein. At the most, a direction can be given to the petitioners to provide all the necessary details as required by the respondent. Therefore, without going into the merits of the claim of the petitioners, they are directed to provide the necessary details along with a fresh representation to the respondent within a period of four weeks from the date of receipt of a copy of this order. On doing so, the respondent is directed to consider the claim of the petitioners as per Section 28-A of the Re-determination of the amount of compensation on the basis of the award of the Court as well as the judgment of the Supreme Court made in Premji Nathu Vs. State of Gujarat and Another, AIR 2012 SC 1624 : (2012) 114 CLT 840 : (2012) 3 RCR(Civil) 31 : (2012) 4 SCALE 235 : (2012) 5 SCC 250 : (2012) AIRSCW 2382 : (2012) 2 Supreme 686 , and pass appropriate orders, on merits and in accordance with law, within a period of four weeks, thereafter. It is made clear that this Court does not express any claim on the merits of the case or contentions of the petitioners.

In the above-terms, this Writ Petition stands disposed of. No costs.