

(1996) 02 MAD CK 0034

In the Madras High Court

Case No : W.A. No. 1400 of 1995 and CMP No. 1286 of 1996

The Special Tahsildar, Land Acquisition Krishna Water Supply Project

APPELLANT

Vs

Natarajan and thirty nine Ors.

RESPONDENT

Date of Decision : 29-02-1996

Acts Referred:

Land Acquisition Act, 1894 — Section 28A

Citation : (1996) 1 CTC 599

Hon'ble Judges : K.A. Swami, C.J.;Raju, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

K.A. Swami, C.J.—Respondents are served and they are represented through a counsel. As the matter is covered by a decision of the

Supreme Court, it is admitted and heard for final disposal.

2. This writ appeal is preferred against the order dated 20.2.1995 passed by the learned single Judge in W.P. No. 1454 of 1995. The learned

single Judge has allowed the writ petition and issued directions in the following terms:

All the petitioners in this writ petition seek a direction to the respondent to consider their representations, dated 31.3.1994 filed u/s 28A of the

Land Acquisition Act. The case of the petitioners is that in LAOP. No. 98 of 1988 the compensation granted to the land owners have been

enhanced and the petitioners seek a modification of the award taking note of the decree in LAOP. No. 98 of 1988. On notice learned Government

Advocate says that the petitioners did not file a copy of the decree in LAOP. No. 98 of 1988. Therefore, I dispose of the writ petition directing

the petitioners to file a copy of the Judgment and decree in LAOP .No. 98 of 1988 within two weeks from today (20.2.1995) and within eight

weeks from the date of receipt of the copy, the respondent is directed to dispose of the representation dated 31.3.1995, if the same is in

accordance with law. The writ petition is disposed of in the above manner. No costs.

3. It may be pointed out here that the respondents have not challenged the award passed by the Land Acquisition Officer, exercising the power of

the Collector. However, in view of enhanced compensation awarded on reference made by other claimants before the civil court in respect of

other lands acquired under the same notification, the respondents have filed applications u/s 28A of the Land Acquisition Act for enhancing the

compensation equivalent to the amount awarded to other landowners. As the said applications have not been disposed of by the Special Tahsildar

(Land Acquisition), Krishna Water Supply project, Thiruvellore (appellant herein), they have approached this Court for the issue of a writ in the

nature of mandamus. The learned single Judge as extracted above has issued directions to the appellant herein to decide those applications within

eight weeks from the date of receipt of a copy of the order.

4. However, it is the case of the learned Government Advocate that the appeals filed against the awards are still pending before this Court and until

those appeals are decided, the applications filed u/s 28A of the Act by the Claimants (Respondents herein) concerning the lands acquired under

the same notification, cannot at all be decided. In support of his plea, the learned Government Advocate has placed reliance on the decision in

Babua Ram and Others Vs. State of U.P. and Another, . In the said decision, it has been held that until the appeals filed against the awards are

decided, the applications filed u/s 28A of the Act cannot be decided as one cannot presume as to what would be the actual enhanced

compensation. Following the said decision, the writ appeal is allowed and the order passed by the learned single Judge dated 20.2.1995 in W.P.

No. 1454 of 1995 is set aside and the writ petition is dismissed. However, it is made clear that the appellant-Special Tahsildar (Land Acquisition)

has to consider the applications u/s 28A of the Act immediately on the disposal of the appeals pending before this Court, without any further delay.

It is also open to the respondents to obtain a copy of the Judgment to be rendered in the appeals and produce the same before the appellant-

Special Tahsildar and call upon him to decide the applications. There will be no order as to costs. Consequently, CMP. No. 1286 of 1996 is dismissed.