



W.P.Nos.25090 of 2021 etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 29.08.2023

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.25090, 26280, 26285, 26292, 26295, 26298, 26983, 26987, 26991,
26994, 27592, 27598, 27603, 27607, 27616, 27624, 27630, 27634, 27637,
27640, 27655, 27661 of 2021 & 3253 of 2022

and

W.M.P.Nos.29120, 29123, 29124, 29130, 29132, 29149, 29150, 29162,
29163, 29168, 29169, 29173, 29174, 29180, 29181, 29203, 29205, 29210,
29212, 28417, 28424, 28428, & of 2021

W.P.No.25090 of 2021:

and

W.M.P.Nos.26433 & 26434 of 2021

1. Chenniappan

2. Thulasimani

3. Venkatachalam

...Petitioners

-Vs-

1. The District Collector,
Erode distirct, Erode.

2. The Revenue Divisional Officer,
Brough Road, Erode-1.



W.P.Nos.25090 of 2021 etc., batch

3. The Chairman,
Tamil Nadu Electricity Board,
Tamil Nadu Generation and
Electricity Distribution Corporation Ltd.,
Anna Salai, Chennai-600 002.

...Respondents

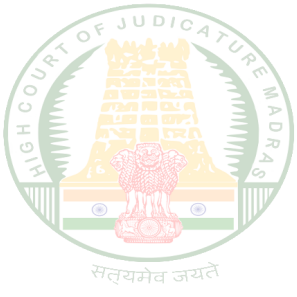
Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the 1st Respondent in his proceedings Na.Ka 20188/ 1999 / B1, dated 08.10.2021 and quash the same and consequently directing the respondents to fix the compensation by taking note of compensation fixed the land situated in S.No.136 and S.No.134 / 5, Anainasuvampalayam Village, Erode Taluk and Erode District.

For Petitioner in all W.Ps.: Mr.C.Prakasam

For Respondents in all W.Ps.:

(for R1 & R2) : Mr.P.Kumaresan,
Additional Advocate General
assisted by
Mr.G.Krishna Raja,
Additional Government Pleader

(for R3) : Mr.K.Arun Prasad



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W.P.Nos.25090 of 2021 etc., batch

COMMON ORDER

The Writ Petitions on hand are filed questioning the validity of the order passed by the District Collector, Erode, in Proceeding dated 08.10.2021.

2. The petitioners in these Writ Petitions are the erstwhile land owners and their lands were acquired for construction of Bhavani Kattalai Hydro Electric Project. The lands were acquired during the year 2000 and the compensation was initially determined by the Land Acquisition Officer.

3. The erstwhile land owners approached the Sub-Court, Erode, seeking enhancement of compensation by challenging the award passed by the Land Acquisition Officer. The Sub-Court fixed the compensation by granting enhancement to the tune of Rs.2,00,000/- (Rupees Two Lakhs only) per acre and Rs.2,500/- (Rupees Two Thousand and Five Hundred only) per coconut tree.



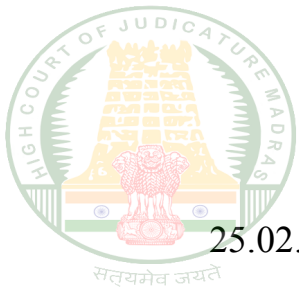
W.P.Nos.25090 of 2021 etc., batch

4. Not satisfied with the compensation granted, the other land owners,

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in respect of the same acquisition proceeds, preferred application under Section 28A of the Land Acquisition Act of the year 2001. The said application was adjudicated by the District Collector, Erode, and an order was passed in proceedings dated 04.03.2019, granting enhancement of compensation to the tune of Rs.4,00,000/- (Rupees Four Lakhs only) per acre and Rs.4,000/- (Rupees Four Thousand only) per coconut tree. Other eligible interest as per the Act was also granted and solatium of 30% was awarded. The said order became final and it was not challenged before any other forum. Thus, the enhancement of compensation granted by the District Collector in proceeding dated 04.03.2019 was said to be final.

5. While so, the very same District Collector who passed the order in proceedings dated 04.03.2019, reviewed his own order and passed another order in proceedings dated 28.05.2019, merely based on the legal opinion given by the learned Additional Advocate General of the High Court of Madras. The said proceedings dated 28.05.2019 was challenged before this Court in W.P.No.1864 of 2020 and this Court allowed the Writ Petition on



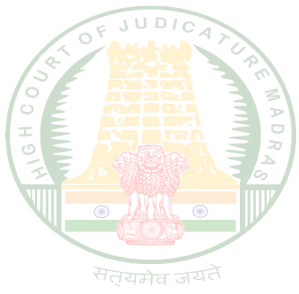
W.P.Nos.25090 of 2021 etc., batch

25.02.2021, directing the District Collector pass speaking order detailing his

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justification for the conclusion arrived in the reviewed order dated 28.05.2019. However, the District Collector again passed the similar order to that of the order dated 28.05.2019 in the impugned proceedings dated 08.10.2021. Thus, the petitioners are constrained to file the present the Writ Petitions.

6. The learned counsel for the petitioner mainly contended that an application under Section 28A was adjudicated by the District Collector at the first instance after affording opportunity to the erstwhile land owners and enhanced the compensation to the tune of Rs.4,00,000/- (Rupees Four Lakhs only) per acre and Rs.4,000/- (Rupees Four Thousand only) per coconut tree. The said enhancement of compensation became final and there was no challenge made by any person and therefore, the subsequent suo-moto review made by the District Collector is without jurisdiction and the said order was perverse.

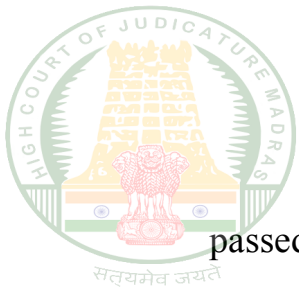


W.P.Nos.25090 of 2021 etc., batch

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7. The learned Additional Advocate General raised an objection by stating that the order passed by the District Collector, initially in proceedings dated 04.03.2019, was found to be incorrect and exorbitant enhancement was granted and therefore, the District Collector has reviewed his own order and passed the revised order in proceeding dated 28.05.2019. Even, in the Writ order, this Court has directed the District Collector to pass speaking order. Thus, the impugned order has been passed assigning the reasons for reconsidering the enhancement of compensation from Rs.4,00,000/- (Rupees Four Lakhs only) per acre and Rs.4,000/- (Rupees Four Thousand only) per coconut tree, to Rs.2,00,000/- (Rupees Two Lakhs only) per acre and Rs.2,500/- (Rupees Two Thousand and Five Hundred only) per coconut tree.

8. Right to Property is a Constitutional Right under Article 300A of the Constitution of India. A citizen can be deprived of his property right only by the Authority of Law. It is not in dispute that the lands belonging to the petitioners were acquired for developing Hydro Electric Project at Bhavani and the Land Acquisition Officer determined the compensation and



W.P.Nos.25090 of 2021 etc., batch

passed an award. One set of land owners filed L.A.O.P. and the Civil Court determined the compensation as Rs.2,00,000/- (Rupees Two Lakhs only) per acre and Rs.2,500/- (Rupees Two Thousand and Five Hundred only) per coconut tree. The other set of the erstwhile land owners preferred an appeal under Section 28A of the Land Acquisition Act. The District Collector adjudicated the issues and passed an order in proceeding dated 04.03.2019, enhancing the compensation to the tune of Rs.4,00,000/- (Rupees Four Lakhs only) per acre and Rs.4,000/- (Rupees Four Thousand only) per coconut tree. The said order became final and the said compensation is to be paid to all the erstwhile land owners who suffer acquisition.

9. However, the District Collector, based on the legal opinion of the learned Additional Advocate General, High Court of Madras, passed a revised order in proceeding dated 28.05.2019 superseding the earlier order dated 04.03.2019. The power exercised in this regard by the District Collector, amounts to excess exercise and not in consonance with the provisions of the Land Acquisition Act. The Collector, once entertained the application under Section 28A and after conducting an enquiry, enhanced



W.P.Nos.25090 of 2021 etc., batch

the compensation in favour of the land losers, thereafter he cannot pass an order again reducing the compensation merely based on the legal opinion given by the learned Additional Advocate General, High Court of Madras.

10. The revised order was passed on the ground that the Civil Court determined the compensation as Rs.2,00,000/- (Rupees Two Lakhs only) per acre and Rs.2,500/- (Rupees Two Thousand and Five Hundred only) per coconut tree. However, in the revised order passed by the District Collector, the compensation was reduced from Rs.4,00,000/- (Rupees Four Lakhs only) per acre and Rs.4,000/- (Rupees Four Thousand only) per coconut tree, to Rs.2,00,000/- (Rupees Two Lakhs only) per acre and Rs.2,500/- (Rupees Two Thousand and Five Hundred only) per coconut tree. Thus, the procedures adopted by the District Collector is not only improper but without any Authority of Law.

11. This Court has reiterated that merely based on the legal opinion of the learned Additional Advocate General, the District Collector cannot reduce the compensation already fixed. More so, while reducing the



W.P.Nos.25090 of 2021 etc., batch

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compensation, no Show Cause Notice or opportunity was given to the erstwhile land owners. The compensation fixed under Section 28A of the Land Acquisition Act was reduced behind the back of the land losers and thus, the order is in violation of the Principles of Natural Justice and more so, the land losers are deprived of the enhanced compensation as fixed by the District Collector under Section 28A of the Act in proceedings dated 04.03.2019.

12. As per the directions issued by this Court, the District Collector again passed an order in impugned proceedings dated 08.10.2021. Even while passing the impugned order, no opportunity was granted to the land losers. Unilateral decision was taken reiterating the decision earlier taken in proceeding dated 28.05.2019. That being the factum established, the order impugned is in violation of the procedures to be adopted under the provision of the Land Acquisition Act. That apart, the enhanced compensation fixed under Section 28A of the Act remains unchallenged and therefore, the land losers / Writ Petitioners are entitled for the enhanced compensation fixed by the District Collector under Section 28A of the Act



W.P.Nos.25090 of 2021 etc., batch

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in proceedings dated 04.03.2019. Accordingly, all the petitioners are entitled for the compensation of Rs.4,00,000/- (Rupees Four Lakhs only) per acre and Rs.4,000/- (Rupees Four Thousand only) per coconut tree, along with the interest and the solatium as granted by the District Collector in proceeding dated 04.03.2019.

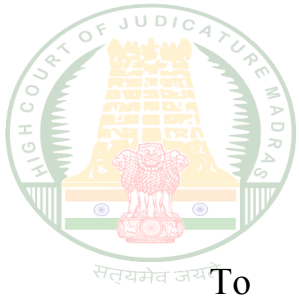
13. The respondents are directed to settle the enhanced compensation to all the erstwhile land owners by deducting the compensation already paid within a period of eight (8) weeks from the date of receipt of copy of this order.

14. With these directions, the impugned order passed by the District Collector in proceedings in Na.20188/1999/B1 dated 08.10.2021, is quashed and all the Writ Petitions are **allowed**. No costs. Consequently, connected miscellaneous petitions are closed.

29.08.2023

Index: Yes
Speaking order
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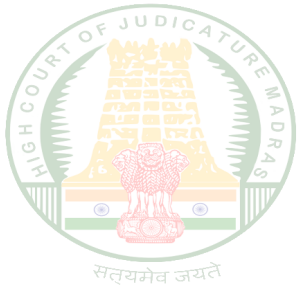
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W.P.Nos.25090 of 2021 etc., batch

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W.P.Nos.25090 of 2021 etc., batch

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W.P.Nos.25090 of 2021 etc., batch

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