



W.A.(MD) No.1364 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.08.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.A.(MD) No.1364 of 2023
and
C.M.P.(MD)No.10397 of 2023**

S.Kothaiammal : Appellant/Writ Petitioner

-vs-

- 1.The Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai.
- 2.The District Collector,
Thoothukudi District,
Thoothukudi.
- 3.The District Officer,
Adi Dravidar and Tribal Welfare Department,
Thoothukudi District.
- 4.The Special Tahsildar,
Adi Dravidar and Tribal Welfare Department,
Kovilpatti, Thoothukudi District.
- 5.The Block Development Officer,
Kovilpatti Panchayat Union,
Thoothukudi District.



W.A.(MD) No.1364 of 2023

WEB C

6.The Village Panchayat President,
Pandavarmangalam Village Panchayat,
Thoothukudi District.

7.The Village Administrative Officer,
Pandavarmangalam Village,
Thoothukudi District.

: Respondents/Respondents

PRAYER: Writ Appeal has been filed under Clause 15 of Letters Patent to set aside the order, dated 06.01.2023 made in W.P.(MD)No.28800 of 2022 on the file of this Court.

For Appellant : Mr.S.Saravanan

For Respondents : Mr.J.Ashok
Additional Government Pleader

JUDGMENT

[Judgment of the Court was made by D.BHARATHA CHAKRAVARTHY, J.]

This Writ Appeal is directed against the order of the learned Single Judge dated 06.01.2023 made in W.P(MD)No.28800 of 2022. By the said impugned order, the learned Single Judge refused the prayer of the petitioner to quash the G.O.Ms.No.976, dated 07.03.1983, by which, the land of the petitioner was acquired as invalid in law on the ground that it lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rahabilitation and Resettlement Act, 2013 in respect of the land



W.A.(MD) No.1364 of 2023

WEB COPY

measuring to an extent of 1 acre and 07 cents in S.No.291/1B in Pandavarmangalam Village, Kovilpatti Taluk, Thoothukudi District. While rejecting the above prayer, the learned Single Judge gave liberty to the petitioner to approach the authorities in respect of disbursal of the compensation amount, if the same remained undisbursed.

2. The case of the petitioner is that the petitioner's husband was the original owner of the land totally measuring 2 acres and 31 cents in S.No. 291/1B of Pandavarmangalam Village, Kovilpatti Taluk. He went missing from 13.08.2015 and thereafter, a civil death was declared. While so on 07.03.1983 land acquisition proceedings were initiated to acquire the land of an extent of 1 acre and 07 cents and her husband filed W.P.No.1277 of 1983 and O.S.No. 404 of 1990 and thereafter A.S.No.96 of 1992, but however, no positive order was obtained by him. According to the petitioner, though the proceedings have lapsed, some antisocial elements who are the agents of the sixth and seventh respondents are trying to grab the said land, they are also putting up temple in the said land for which a police complaint was lodged. Therefore, praying to declare that the land acquisition proceedings has lapsed as per Section 24(2) of the Act, the writ petition is filed.



W.A.(MD) No.1364 of 2023

WEB COPY

3. The learned Single Judge considered the case of the petitioner and found that the entire issue has been closed since long back as the writ petition filed by the petitioner's husband in W.P.No.1277 of 1983 was dismissed and again the suit filed by him in O.S.No.404 of 1990 was also dismissed. The learned Single Judge further considered the communication dated 13.08.2005 in which, it was indicated that the land owner refused to receive the award amount. Therefore, the learned Single Judge declined the relief prayed for. However, considering the grievance expressed by the petitioner, the learned Single Judge directed the survey of the land and demarcate the extent of 1 acre and 07 cents, which is already acquired. If the compensation amount remains undisbursed, the learned Single Judge directed the authorities to do the needful. Aggrieved by the same, the writ petitioner has come an appeal before this Court.

4. Heard *Mr.S.Saravanan*, the learned counsel appearing on behalf of the appellant and *Mr.J.Ashok*, the learned Additional Government Pleader appearing on behalf of the respondents.

5. The petitioner claims relief under Section 24(2) of the Act. The entire issue has been settled by the Larger Bench of the Hon'ble Supreme Court of



W.A.(MD) No.1364 of 2023

India in **Indore Development Authority vs Manoharlal And Ors.**¹. As per the same, it is for the writ petitioner to prove that the neither possession was taken nor the compensation was disbursed. In this case, a perusal of the representation submitted by the petitioner reads as follows:

“ஆதிதிராவிடர் நலத்துறையால் கையகப்படுத்தப்பட்ட
மேற்கண்ட எங்களின் நிலமானது எந்தவொரு
பயன்பாடும் இல்லாமல் 40 ஆண்டுகளாக இருந்து வருகிறது.
ஆதிதிராவிடர் நலத்துறையும் மேற்படி நிலத்தை
கண்டுகொள்ளவில்லை. உள்ளூர் பஞ்சாயத்து அலுவலர்கள் மற்றும்
அரசியல் பிரமுகர்கள் சிலரின் உதவியுடன் சில சமூக விரோதிகள்
மேற்படி நிலத்தை ஆக்கிரமிப்பு செய்ய எத்தனித்து வருகிறார்கள்.”

6. Thus, it is very clear that the possession has long since been taken. Secondly, it is seen from the communication dated 13.08.2005 which is on record that the petitioner's husband had refused to receive the compensation and consequent upon such refusal, the same has been kept in a separate deposit. Further, it can also be seen that the entire land acquisition proceedings and its validity thereof has been concluded long back by the dismissal of the writ petition in W.P.No.1277 of 1983 and the suit in O.S.No.

¹ (2020) 8 SCC 129



W.A.(MD) No.1364 of 2023

WEB COPY

404 of 1990. In that view of the matter, the petitioner is not entitled to the relief prayed for in this appeal as she does not satisfy the criteria as enunciated by the Hon'ble Supreme Court of India in respect of Section 24(2) of the Act. However in respect of carrying out a survey and disbursement of the compensation if any, the learned Single Judge himself has granted relief to the appellant.

7. In view thereof, finding no merits, this Writ Appeal is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [D.B.C., J.]

23.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
sjj

To

- 1.The Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai.
- 2.The District Collector,
Thoothukudi District,
Thoothukudi.



W.A.(MD) No.1364 of 2023

WEB COPY

- 3.The District Officer,
Adi Dravidar and Tribal Welfare Department,
Thoothukudi District.
- 4.The Special Tahsildar,
Adi Dravidar and Tribal Welfare Department,
Kovilpatti, Thoothukudi District.
- 5.The Block Development Officer,
Kovilpatti Panchayat Union,
Thoothukudi District.
- 6.The Village Panchayat President,
Pandavarmangalam Village Panchayat,
Thoothukudi District.
- 7.The Village Administrative Officer,
Pandavarmangalam Village,
Thoothukudi District.



WEB COPY



W.A.(MD) No.1364 of 2023

S.S.SUNDAR, J.
and
D.BHARATHA CHAKRAVARTHY, J.

sjj

W.A.(MD) No.1364 of 2023
and
C.M.P.(MD)No.10397 of 2023

23.08.2023