



W.P.(MD)No.696 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :11.10.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.9072 of 2021
and WMP(MD) No.8291 of 2021

S.Thangaiah,

... Petitioner

Vs

1. The District Collector,
Collectorate, Madurai District.

2. The Revenue Divisional Offic,
Er, Melur Revenu Divisional Office,
Camp at Y.Othakadai, Madurai District.

3. The Tahsildar,
Madurai East Taluk, Narasingam, Y.
Othakadai, Madurai District.

4. The Assistant Executive Engi,
Neer(Pwd), Periyar Vaigai Canal Sub
Division-2, Tallakulam, Madurai-625 002..

5. The Divisional Engineer,
National Highways Besant Road,
Chinnachokkikulam, Madurai..

6. The Superintending Engineer,
National Highways, Besant Road,
Chinnachokkikulam, Madurai-625 002

... Respondents



W.P.(MD)No.696 of 2021

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents to restore possession of the illegally acquired two landed properties to the Principal of the petitioner comprised in Re-survey no.239/7, U.D.R.Survey No.91/7-B130/4B with an extent of 6 1/2 cents and in Re-Survey No.239/8, U.D.R.Survey No.91/8 with an extent of 15 cents, aggregating 21 1/2 cents, bearing the Patta No.1153 situated at Vandiyur bit II village, Madurai East Tk, Madurai Dt and on necessity the said property be acquired for the purpose of road laying following the due process of law after payment of compensation to the petitioner at the prevailing market rate price based on his representation dated 25.07.2020 to the respondents.

For Petitioner :Mr.K.Pandiarajan
For Respondents :Mr.R.Ragavendran
Additional Government Pleader

ORDER

This writ petition has been filed for the issue of a writ of mandamus directing the respondents to restore possession of the properties belonging to the petitioner or in the alternative to pay the compensation to the petitioner at the prevailing market value by considering the representation made by the petitioner on 25.07.2020.



W.P.(MD)No.696 of 2021

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2.The case of the petitioner is that the subject property were purchased by him through registered sale deed dated 22.08.2002. Thereafter, patta was also transferred in his name. The grievance of the petitioner is that the highways department while laying the road, encroached upon the properties belonging to the petitioner in spite of the objections raised by the petitioner. The petitioner therefore, made a representation to the respondents to restore possession of the property or in the alternative to pay compensation. Since the same was not considered, the present writ petition has been filed for appropriate direction.

3. When the matter was taken up for hearing on 04.10.2023, this Court passed the following order:

“This writ petition has been filed for a direction to the respondents to restore the possession of the subject property or in the alternative to pay the compensation to the petitioner based on the representation made by the petitioner on 25.07.2020.

2.The learned Additional Government Pleader, on oral instructions, submitted that the property belonging to the petitioner was not acquired. However, the learned counsel for the petitioner wants to get written instructions



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W.P.(MD)No.696 of 2021

in this regard. Post on 11.10.2023.”

4. When the matter was taken up for hearing today, the learned Additional Government Pleader circulated the report of the Village Administrative Officer and the Surveyor dated 09.10.2023. On carefully going through the report, it is seen that a total extent of 0.01.13 Ares has been taken away by the highways department while laying the road. For proper appreciation, the report is extracted hereunder:

□மதுரை மாவட்டம் மதுரை கிழக்கு வட்டம் சக்கிமங்கலம் குறவட்டம் வண்டியூர் பித் - 2 கிராம புல எண் 91/7B, 91/8A ல் மாண்பும சென்னை உயர்நீதிமன்ற மதுரை கிளை நீதிப்பேராணை உத்தரவு WP(MD) No.9072/2020 ன் படி மனுதாரர் தங்கையா என்பவர் தனது பட்டா இடத்திலிருந்து சாலைக்காக இடம் எடுக்கப்பட்டு விட்டதாக வழக்கு தொடர்ந்துள்ளார். இது தொடர்பாக புலமானது புலத்தணிக்கை மேற்கொண்டு அளவுப்பணி செய்யப்பட்டு புலமானது அளக்கப்பட்டது. மேற்படி நிகழ்வை கிராமநிர்வாக அலுவலர், கிராம அலுவலக உதவியாளர் மற்றும் மதுரார் தங்கையா அவர்களும் அறிந்து கொண்டனர். முனதாரின் பத்திர எண் 1807/2022 ஆய்வு செய்த போது புல எண் 91/7B, 8A புலத்தணிக்கை செய்யப்பட்டு பூமியில் அளவைப்பணி மேற்கொண்டதில் வண்டியிலிருந்து விரகனார் சாலைக்குச் செல்லும் ரோட்டிற்காக மனுதாரரின் பட்டா நிலத்திலிருந்து நிலங்கள் எடுக்கப்பட்டுள்ளது. ஆதாவது புல எண் 91/7Bயிலிருந்து நிலங்கள் எடுக்கப்பட்டுள்ளது. அதாவது புலஎண்



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W.P.(MD)No.696 of 2021

91/7Bயிலிருந்து 0.0049 ச.மீ மற்றும் 91/8Bயிலிருந்து 0.0063 ச.மீ என ஆக மொத்தம் 0.01.13 ஏர்ஸ் சாலைக்காக எடுக்கப்பட்டது கண்டறியப்பட்டுள்ளது. மேற்படி சொன்ன காரணங்களை கவனமாக பரிசீலனை செய்ததில் மனுதாரரின் பட்டா நிலத்திலிருந்து சாலைக்காக 0.01.13 ஏர்ஸ் எடுக்கப்பட்டுள்ளது என்ற விவரத்தை பணிவுடன் தெரிவித்துக் கொள்கின்றேன்.□

Along with the above report, the FMB sketch has also been annexed.

5. It is clear from the above report that the 5th respondent and 6th respondent at the time of laying the road had encroached upon 0.01.13 ares of property belonging to the petitioner.

6. In view of the above, there shall be a direction to the 5th and 6th respondents to consider the representation made by the petitioner on 25.07.2020. The 5th respondent and 6th respondent will have to either remove the encroachment that has been made on the property belonging to the petitioner to an extent of 0.01.13 ares in S.Nos.91/7 and 91/8B or in the alternative, the 5th and 6th respondents will have to pay compensation to the petitioner on the basis of the market value prevailing. This decision shall be taken by the 5th and 6th respondents within a period of four months from the date of receipt of a copy of this order. The petitioner is directed to make a



W.P.(MD)No.696 of 2021

fresh representation to the 5th and 6th respondents along with a copy of this order.

7. This writ petition is disposed of in the above terms. No costs.

Consequently connected Miscellaneous Petition is closed.

11.10.2023

NCC :Yes/No

Index :Yes/No

RR

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Camp at Y.Othakadai, Madurai District.

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Page 6 of 8



W.P.(MD)No.696 of 2021

Chinnachokkikulam, Madurai-625 002..

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W.P.(MD)No.696 of 2021

N.ANAND VENKATESH, J.

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W.P.(MD)No.9072 of 2020

11.10.2023