

In the High Court of Judicature at Madras

Dated : 15.12.2015

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.26695 of 2015

J.Bhavani

...Petitioner

Vs

1.The District Collector, Kancheepuram.

2.The Divisional Engineer, Highways
Department, Chengalpattu-603001.

3.The Assistant Engineer, Highways
Department, Sriperumbudur.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to pay compensation to the petitioner for acquiring the lands measuring 35 cents comprised in S.No.142/3C2, Varadharajapuram Village, Sriperumbudur Taluk, Kancheepuram District as per the provisions of the Land Acquisition Act.

For Petitioner : Mr.S.Udhaykumar

For Respondents : Mr.R.Rajeswaran, SGP

ORDER

The petitioner, who is the owner of the land in S.F.No.142/3C2, Varadharajapuram Village, in an extent of 58 cents out of the total extent of acres 1.75 cents, has come forward with the writ petition for a direction to the respondents to pay compensation for taking over the petitioner's lands without resorting to the provisions of the Land Acquisition Act.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents.

3. The second respondent filed a counter affidavit. From the counter affidavit, it is seen that the lands owned by the petitioner have been utilized for the highways project and as on date, no notification has been issued under the provisions of the Tamil Nadu Highways Act, 2001. In paragraph 9 of the counter affidavit, it is stated that demarcation will be done and process of acquisition under

the Tamil Nadu Highways Act will be initiated and forwarded to the Government for payment of compensation.

4. The stand taken by the second respondent is wholly arbitrary and unsustainable, since the acquisition should precede utilization of the land. However, in the instant case, it appears that utilization has been done and the road has been formed over the petitioner's lands without acquisition. Therefore, as on date, only two options are available to the respondents. One is to issue a notification under the Tamil Nadu Highways Act to initiate acquisition proceedings and pay compensation. If the petitioner disagrees with the compensation to be awarded, then the other option available for the respondents is to enter into a private negotiation with the petitioner and pay compensation as per the market rate prevailing on the date when the notification is issued.

5. There will be a direction to respondents 1 and 2 to exercise one of the above two options within a period of eight weeks from today.

6. The writ petition is ordered accordingly. No costs.

RS

Sd/-

The Assistant Registrar (IV)

/True Copy/

The Sub Assistant Registrar

To

1.The District Collector, Kancheepuram.

2.The Divisional Engineer, Highways Department, Chengalpattu-603001.

3.The Assistant Engineer, Highways Department, Sriperumbudur.

+1 CC to Mr.S.Udhayakumar, Advocate SR.No.67307

+1 CC to The Government Pleader SR.No.67626

WP.No.26695 of 2015

CO-KJI

ths : 29.12.2015