

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2015

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.No.27389 of 2015
& M.P.No.1 of 2015

S.Jayaraman

.. Petitioner

Vs.

1.The District Collector,
Perambalur District,
Perambalur-621 212.

2.The Tahsildar,
Veppanthattai Taluk.

3.The Executive Engineer,
Public Works Department,
Perambalur.

4.The Assistant Executive Engineer,
(Visukudi-Kallar Dam Project),
Public Works Department,
Thuraimangalam Village & Post,
Perambalur Taluk & District.

5.The President,
Annamangalam Panchayat,
Vepanthattai Taluk,
Perambalur District.

.. Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus forbearing the respondents from laying road in the properties of the petitioner in S.F.No.557/2-40 cents, S.F.No.557/3-1.21 acres, S.F.No.557/4-1.20 acres, S.F.No.557/5-0.78 cents, S.F.No.557/6-0.35 cents, S.F.No.557/7B-0.52 cents, S.F.No.557/8-0.52 cents, S.F.No.578/1-out of 4,75 acres -2.96 acres, S.F.No,578/2 out of 2.92 acres -90cents, S.F.578/2 out of 2.92 acres 2.02 acres and the half share in common well situate in S.F.No.578/1 all situate in Annamangalam Village, Veppanthattai Madura, Veppanthattai Taluk, Perambalur District, without acquiring the properties in accordance with law and paying compensation to the petitioner.

For Petitioner
For Respondents

.. Mr.N.Suresh
.. Mr.P.Sanjay Gandhi,
Additional Government Pleader

ORDER

Though a larger prayer has been sought for, it appears to be a dispute in identification of the land, which was acquired by the respondents for laying road. The record would show that the petitioner, on facts, does not have any objection in laying the road, which leads to the dam, but the question is one of identifying the petitioner's land, while it is the case of the petitioner that he owns a larger extent of land, it is the case of the respondent that they acquired only 1.12 cents of land. On an earlier occasion, on a different plea, this Court in W.P.No.25221 of 2014 by an order dated 14.08.2015, held as follows.

"5. The petitioner contends that he is the owner of the property by virtue of two sale deeds and he is in possession and there is a dispute with the fifth deponents on the southern side with regard to the boundary, the petitioner has also paid proper fee for carrying out the measurement. Joint Patta dated 6.6.2015 is also perused and the name of the petitioner also finds place along with the fifth respondent. In this regard, the petitioner has given a representation and also paid necessary fee on 2.2.2105. If it is for measurement and for subdivision as the properties are found in the joint patta, the respondents 2 to 4 have to necessarily carry out the measurement and thereafter, sub-divide the survey number so that separate patta can be issued to the petitioner and the fifth respondent.

6. For the above reasons, this Court directs the Respondents 2 to 4 to fix the date for measuring the properties and inform the fifth respondent in advance about the measurement to be carried out, so that the fifth respondent can also be present at the time of measurement. In the presence of the petitioner as well as the fifth respondent and correlating with the title of the documents of the fifth respondent as well as that of the petitioner, the respondents have to measure and sub-divide the survey numbers. It is made clear that without notice to the fifth respondent, no measurement can be taken.

7. As far as the second limb of the prayer is concerned that is for giving notice before acquisition of land, it cannot be granted as it is not contemplated in the statute. Therefore, this prayer is rejected. In case of acquisition, the respondents have

to acquire the land as per the provisions of the statute.

8. With the above observation, the Writ Petition is disposed of. The connected Miscellaneous Petition is closed. No costs."

2. The learned counsel appearing for the petitioner submitted that the petitioner is willing to co-operate, whereas the learned Additional Government Pleader submitted a recording of video graph, which would show that the petitioner is not co-operating and refusing to sign. The petitioner has once again reiterated that it is indeed a fact that he has given the statement stating that he would give his land for laying of the road subsequent to the fixing of adequate compensation and he would remove the standing trees, but without even undergoing the process of fixation of compensation, forcible possession is sought to be made and laying of road is in progress by removing the standing trees on their own by the respondents.

3. Considering the limited scope of the prayer sought for in this writ petition, this Court is not willing to go beyond and suffice to appoint an advocate Commissioner. Accordingly, Ms.L.Kalaivani, Advocate, residing at No.11, Judge Jambulingam Streetm Dr.Radhakrishnan Road, Mylapore, Chennai-600 004, (Mobile No.8056248232) is appointed as Advocate Commissioner, to go and inspect the land in dispute with the help of the respondents 2 to 4 after due notice to the petitioner and the respondents and to file a Report in respect of the petitioner's land under acquisition by the Government, marking copies to the petitioner as well as the respondents. The entire exercise will have to be carried out by the learned Advocate Commissioner as well as respondents 2 to 4 within a period of six weeks from the date of receipt of a copy of this order. The petitioner is directed to serve a typed set of papers to the Advocate Commissioner. Till the learned Advocate Commissioner files the report, status quo as on today shall be maintained. The remuneration of the Advocate Commissioner is fixed at Rs.50,000/-, out of which a sum of Rs.25,000/- shall be paid by the petitioner and the remaining sum of Rs.25,000/- shall be paid by the Government within a period of four weeks from the date of receipt of a copy of this order. After receipt of the Advocate Commissioner's Report, the question of compensation has to be finalised and paid to the petitioner by the first respondent within a period of four weeks thereafter. After payment of the compensation arrived at by the 1st respondent, liberty is also given to the petitioner to approach the Civil Court seeking appropriate relief of claiming higher compensation, in which case he could also assail the finding given by the learned Advocate Commissioner.

4. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

- 1.The District Collector,
Perambalur District, Perambalur-621 212.
- 2.The Tahsildar,
Veppanthattai Taluk.
- 3.The Executive Engineer,
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- 4.The Assistant Executive Engineer,
(Visukudi-Kallar Dam Project),
Public Works Department,
Thuraimangalam Village & Post,
Perambalur Taluk & District.
- 5.The President,
Annamangalam Panchayat,
Vepanthattai Taluk, Perambalur District.
6. MS.L.Kalaivani
Advocate Commissioner Mobile NO.8056248232
NO.11, Judge Jumbulingam Street,
Dr.Radhakrishnan Road, Mylapore
Chennai-4
- 7.S.Jayaraman, S/O.Sellamuthu Konar,
Mariamman Koil Street, Anna Mangalam Village,
Veppanthattai Taluk, Perambalur District

+1 cc to Mr.N.Suresh Counsel for Petitioner
sr.50217

+1 cc to Government Pleader sr.50270

W.P.No.27389 of 2015

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