

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.2.2015

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.Nos.5469 of 2011

M.Subramani

.. Petitioner

Versus

1. The State of Tamil Nadu
by Secretary,
Industries (MIDI) Department
Fort St.George, Chennai - 9
2. The District Collector, Thiruvallur
Thiruvallur District
3. The Special Tahsildar (LA)
Aromatiacs Complex (MRL)
Saidapet, Chennai -15
4. The Management of Chennai Petroleum
Corporation Limited, 536, Anna Salai
Teynampet, Chennai - 18 .. Respondents

Writ petitions filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus Calling for the records pertaining to the Order-cum-Endorsement of the 3rd respondent bearing Na.Ka.No.122 of 1997 dated 20.5.2010 and quash the same and also directing the respondents to give the petitioner the Rehabilitation Package given to the other similarly affected land owners in Vaikadu Village, Madhavaram Taluk , Thiruvallur District for the acquisition of their lands for the 4th respondent.

For Petitioner : Mr.V.Venkatesan

For R1 to R3 : Mr.K.Balasubramanian
Special Government Pleader

For R4 : No Appearance

ORDER

The petitioner has filed this writ petition challenging the order dated 20.5.2010 passed by the third respondent by which the petitioner's request for grant of alternate site and employment opportunity in accordance with G.O.Ms.No.648 Industries (MID1) Department dated 16.9.1989, wherein the Government extended the benefits to persons whose lands were taken over for the purpose of Aromatic Complex and other Petro-Based Down Stream Project near Madras Refineries Limited, now re-named as Chennai Petroleum Corporation Limited.

2. Earlier, the petitioner had filed writ petition in W.P. No. 16495 of 2007 requesting for such benefits and the said writ petition was disposed of along with batch of cases by a common order dated 04.6.2007 directing the authorities to inquire into the matter and opportunity was granted to the petitioner and other similarly placed persons to produce the evidences in support of the claim within the specified time pursuant to which, the Revenue Divisional Officer, Ponneri was appointed as Inquiry Officer, who conducted an inquiry and submitted a report on 21.6.2008. Based on the report, the impugned order has been passed stating that as per the ration card produced, the petitioner is residing at 82/C, MMDA, Manali New Town and that there is no proof to show that he is residing in the said property and that 1 ½ cents of the land is lying vacant.

3. The petitioner has filed this writ petition challenging the said order by contending that the petitioner has never claimed any package relief in respect of S.No.135/1A which is a Government Poromboke land but his claim was in respect of the patta land in S.No.111/10B, Vaikadu Village. It is further submitted that the main gate of the Bottling Plant of the fourth respondent exists in the petitioner's property in S.No.111/10B, which was acquired by the Government. Further, it is submitted that after the acquisition proceedings, the petitioner has vacated his house in 1993 from S.No.110/10B and shifted his residence and, therefore, it is quite natural that the ration card contains the present address. Further it is submitted that though the petitioner's signature was obtained, because of his lack of education, he was not aware about the contents of the document which were written in English. According to the petitioner, he is not well versed in the English language. Further, it is submitted that the petitioner's son worked earlier as a Mechanical Fitter for the plant maintenance work by the fourth respondent Corporation for 2 ½ years and, therefore, if Package relief is granted, the family will be greatly benefited.

4. A counter affidavit has been filed by the respondents, inter alia, referring to the Package, which is being given to the persons whose lands were acquired and it is stated that the petitioner's lands in S.No.111/10B were acquired in Award No.12/93 dated 20.10.1993 and compensation was received by him. Since he sought for enhancement of compensation, the matter was referred to Reference Court in LAOP No. 1759/1998 and the matter was settled in the Lok Adalat, and compensation, which was enhanced to Rs. 21,750/-, was deposited in the Sub Court, Ponneri through the third respondent and after receiving the compensation, the petitioner has handed over the possession of the land in 1993 and left the place. Further, it is stated that the petitioner identified a hut put up by him in the Government Poromboke land in S.No. 135/1A (Kalathu Medu) of Vaikkadu Village at the time of enumeration. In the enumeration record, it is stated that "New Hut - Not residing". Further it is stated that the petitioner in his representation has given residential address as No.40, Vinobaji Street, Vaikkadu, Manali, Chennai -103 which is different from the particulars furnished in the earlier writ petition. That apart, the family ration card produced by the petitioner shows as if he is residing at 82/C Manali New Town. It is further stated that there is no trace of living in the hut identified by the petitioner. Further it is submitted that the petitioner has made his claim only for the land in S.No.135/1A, Vaikkadu Village in the first Writ Petition in WP.No. 16495 of 2007 as well as in his representation dated 10.01.2008 and even assuming without admitting that his claim was for Survey No. 111/10B, the petitioner is not entitled for the Package relief since he was not residing in the said address, when enumeration was taken. With the above contentions, the third respondent prays for dismissal of the writ petition.

5. Heard Mr. V.Venkatesan, learned counsel for the petitioner and Mr.K.Balasubramanian, learned Special Government Pleader appearing for the respondents and perused the materials placed on record.

6. The short issue which falls for consideration is as to whether the petitioner is entitled for relief under the said Package announced by the respondents on account of the fact that the land owned by the petitioner was taken over for the purpose of forming Aromatic Complex.

7. The petitioner appears to have claimed the benefit of the Package relief in respect of the lands in S.Nos.135/1A and 111/10 B. So far as the land in question i.e S.No.135/ 1A is concerned, it is a Government poromboke land and, therefore, the petitioner would not be entitled for compensation except for the compensation which the Government now decides to grant for temporary hut which is in the nature of ex-gratia payment.

8. The case of the petitioner is that the S.No.111/10B is a private patta land and, therefore, he should be granted compensation. The third respondent disputes the fact that S.No. 111/10B is a private land but the defence taken in the counter is that during enumeration, there is nothing to show that the petitioner was residing in S.No. 111/10B. Further, the stand taken in the counter affidavit in para 14, is contrary to the stand taken in para 10 of the counter affidavit wherein, the respondent would admit the land in S.No.111/10B there is Mangalore tiled house and that was acquired, compensation was awarded and the petitioner applied for enhancement of compensation and the same was granted by the Lok Adalat and the amount was also deposited in the Sub Court, Ponneri. Further more, a perusal of the documents filed in typed set of papers, more particularly, notices issued by Special Tahsildar dated 8.2.21993, 28.9.1993 and 20.10.1993, clearly show that the petitioner has been recognised as Pattadar of S.No.111 / 10B and that the Mangalore tiled house is also noted in the said proceedings. Under such circumstances, documents issued by the third respondent itself prove that the petitioner was in possession of the Mangalore tiled house in the said S.No., which is admittedly a patta land and he received compensation for the said land and house. Therefore, the contention raised by the respondents in the counter denying the Package relief of the petitioner in respect of his S.No.111/10B, having been acquired, is untenable and accordingly, rejected. The second respondent would state that in the enumeration list, it has been mentioned as "New Hut - Not residing". The records referred to before this Court are after the said enumeration. It is not known on what basis enumeration details was prepared and recorded what was the nature of inquiry and in any event, payment of compensation to the petitioner for acquisition of the land and the house is sufficient proof to show that he was in possession of the property.

9. The reference to the address in the ration card is thoroughly misconceived. Admittedly, the petitioner has vacated and handed over the vacant possession after receiving enhanced compensation in the year 1993 itself. This has been admitted in paragraph 5 of the counter affidavit. Therefore, the ration card issued subsequently obviously would contain the new different address. Therefore, the stand taken by the third respondent in this regard is also rejected.

10. Accordingly, the writ petition is allowed and the impugned order is quashed and the third respondent is directed to release

the Package relief to the petitioner and extend all the benefits to the petitioner in accordance with the Package within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

1. The Secretary,
Industries (MIDI) Department
Fort St.George, Chennai - 9
2. The District Collector, Thiruvallur
Thiruvallur District
3. The Special Tahsildar (LA)
Aromatiacs Complex (MRL)
Saidapet, Chennai -15
4. The Management of Chennai Petroleum
Corporation Limited, 536, Anna Salai
Teynampet, Chennai - 18

1 cc to Government Pleader, Sr. 8052
1 cc to M/s.V. Rghupathi, Advocate, Sr. 8039
1 cc to M/s.R. Senthilkumar, Advocate, sR. 8092

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