

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07-03-2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.26909 OF 2015

N.Palanikuppusamy

... Petitioner

-Vs-

1. The District Collector,
Erode, Erode District.
2. The Revenue Divisional Officer,
Erode, Erode District.
3. The Revenue Tahsildar,
Perundurai Taluk,
Perundurai,
Erode District.

... Respondents

Petition under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified mandamus, to call for the records pertaining to Na.Ka.No.9201/2015/A5, dated 24.07.2015, on the file of third respondent and quash the same and consequently direct the third respondent to issue priority certificate to the petitioner's son, namely, P.Sakthivel.

For petitioner : Mr.K.Myilsamy

For respondents : Mr.R.Lakshminarayanan,
Additional Government Pleader

ORDER

Petitioner has filed this Writ Petition, seeking for issuance of a writ of certiorarified mandamus, to quash the order passed by the third respondent in Na.Ka.No.9201/2015/A5, dated 24.07.2015, and to direct the third respondent to issue priority certificate to the petitioner's son, namely, P.Sakthivel, to enable him to secure employment under priority quota.

2. Petitioner was the owner of the agricultural lands, measuring an extent of 34.41 acres comprised in S.No.88, 87/3, 141/1 and 30, situated at Kodumanal Village,

Perundurai Taluk, Erode District, and the said lands were the subject matter of acquisition for Noyyal Orathupalayam Dam. Notification under Section 4 (1) of the Land Acquisition Act, 1894, came to be issued on 14.08.1996. Out of the total extent of 30.70 acres, an extent of 17.50 acres have been acquired and the remaining 13.20 acres, which are barren and rain fed lands, are in possession of the petitioner. Petitioner's further case is that because of indiscriminate discharge of sewage and untreated effluents by the dyeing units in and around Erode, the remaining extent has also become highly polluted and there is no possibility of use of the land and land is always inundated on account of construction of the dam. Therefore, the petitioner would state that since his entire livelihood is on lands, he seeks for priority certificate for his son to get employment. Further, the compensation awarded was meagre and the petitioner also did not claim any enhanced compensation. It is stated that the petitioner's son has completed M.Sc., M.Phil., Ph.D., in Coimbatore, and is still languishing without any job.

3. Perusal of the impugned proceedings shows that the order has been passed without conducting any inquiry. The petitioner's case is that the remaining extent of 13.20 acres has become uncultivable and unfit for any use and, therefore, they are without any source of income. The authority, before passing the orders, should ensure that prior enquiry is conducted and it merely cannot go by the guideline value of the property and also should see whether any income would be generated from the said property.

4. In the instant case, no enquiry was conducted and the petitioner was not put on notice about the details to be furnished and the order has been passed referring to Government Order, dated 28.12.1976. Therefore, the impugned order calls for interference. Accordingly, this Writ Petition is allowed and the order impugned is quashed. The matter is remanded to the third respondent for fresh consideration. The third respondent shall enquire the petitioner, conduct an inspection, ascertain the facts and also call for the full details of the petitioner's son and thereafter pass appropriate orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

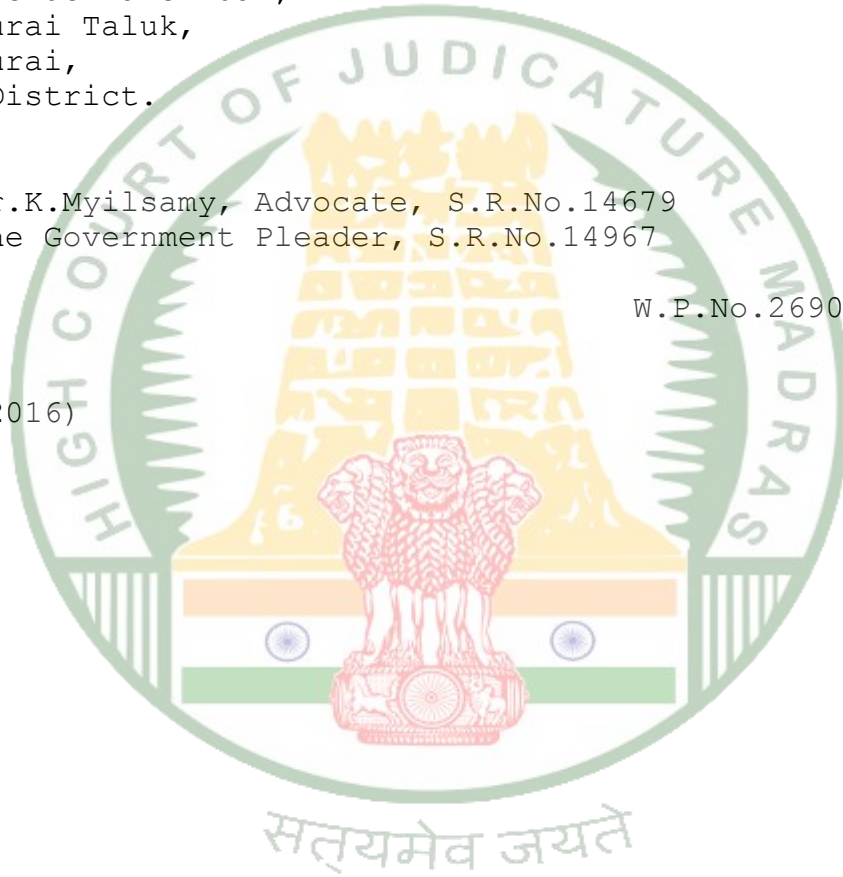
To

1. The District Collector,
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Erode District.
2. The Revenue Divisional Officer,
Erode,
Erode District.
3. The Revenue Tahsildar,
Perundurai Taluk,
Perundurai,
Erode District.

+lcc to Mr.K.Myilsamy, Advocate, S.R.No.14679
+lcc to the Government Pleader, S.R.No.14967

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SV(CO)
CA(28/03/2016)



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