

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 12-02-2016

CORAM:

THE HONOURABLE MR. JUSTICE R. SUBBIAH

W.P.No.37743 of 2015

S. Subbarayan

.. Petitioner

Vs.

1. The Collector
Salem District
Salem.
2. The Village Administrative Officer
Pattuthurai Village
Attur Taluk
Salem District
3. Power Grid NM Transmission Ltd.,
(A fully owned subsidiary of Power Grid Corporation
of India Ltd., A Government of India Enterprise)
No.499, KV Substation, Konakapadi Post
K.R. Thoppur, Salem - 636 502
Rep. by its Junior Engineer ... Respondents

Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents to hand over the demand draft for a sum of Rs.4,74,350/- to the petitioner for cutting of 31 coconut trees and one Mango tree in the agricultural land situated in S.No.236/5 and 236/7 of Sivasankarapuram, Pattuthurai Village, Attur Taluk, Salem District arrived as the loss for the formation of Nagapattinam Pooling Station- New Salem (Dharmapuri) 765KV D/C transmission line and pass orders.

For petitioner :: Mr. S. Doraisamy

For respondents :: Mrs.P. Rajalakshmi, GA
1 & 2 Mr. V. Kalyanaraman
R3 for M/s. Aiyar & Dolia

ORDER

The petitioner has come forward with this petition praying for a writ of Mandamus directing the respondents to hand over the demand draft for a sum of Rs.4,74,350/- to the petitioner for cutting of 31 coconut trees and one Mango tree

in the agricultural land situated in S.No.236/5 and 236/7 of Sivasankarapuram, Pattuthurai Village, Attur Taluk, Salem District arrived as the loss for the formation of Nagapattinam Pooling Station- New Salem (Dharmapuri) 765KV D/C transmission line and pass orders.

2. The case of the petitioner is that he is in occupation of the land situate in S.No.236/5 and 236/7 to an extent of 1.13.0 Hectare of Sivasankarapuram, Pattuthurai Village, Attur Taluk, Salem District for the past thirty years and the land situate in Survey No.58/1 to 239/6 to an extent of 43.62.0 Hectares is classified as Odai Poramboke in the revenue records. The petitioner along with 69 such occupants made representation to the Government for assignment of the said land and issuance of patta stating that they were in occupation of the land for a long period and has developed the same by doing agriculture. The petitioner would aver that the Government after calling for the objections from the public passed G.O.Ms.No.580, Revenue (F1) Department dated 23-06-1995 directing the Commissioner of Land Administration to issue patta and assign the land to the petitioner and 68 other occupants vide Form No.D on 21-02-2001 in Proceedings No.A.M.50/1410. When the petitioner approached the Tahsildar for issuance of fresh patta for getting agricultural loan, it was informed that the said assignment was cancelled by the Collector. Aggrieved by the said cancellation, the petitioner and three others filed W.P.No.3769 of 2008 before this Court and this Court, set aside the order of cancellation by an order dated 28-08-2012 and remanded back the matter to the Collector, Salem for fresh enquiry, after giving an opportunity of hearing, which ended in an order dated 05-11-2013 confirming the said cancellation. Against the said confirmation order, the petitioner and three others filed W.P.No.25790 of 2014 and while admitting the said writ petition, this Court granted an interim order of stay against the apprehension of eviction.

3. Whiles, the Government of India entrusted with the construction of Nagapattinam Pooling Station-New Salem (Dharmapuri) 765 KV D/C transmission line passing through the petitioner's agricultural land proposed to cut 31 Coconut trees and one Mango tree and the damages had been arrived at Rs.4,74,350/- (Rupees Four lakhs Seventy Four thousand Five hundred and fifty only) and a Demand Draft for the said amount was handed over to the Village Administrative Officer. The Village Administrative Officer refused to hand over the Demand Draft to the petitioner stating that the grant of assignment of the land was already cancelled and the petitioner is not entitled for the damages. Challenging the same, the petitioner has come forward with this writ petition.

4. Heard the learned counsel appearing for the

petitioner and the learned counsel appearing for the respondents.

5. The learned Government Advocate appearing for the first and second respondent, on instructions, would submit that since the land is a poramboke land and the grant of assignment of the said land has already been cancelled, the petitioner is not entitled to make any claim towards damages.

6. The learned counsel appearing for the third respondent would submit that they have already handed over the Demand Draft to the second respondent and therefore, the dispute is between the second respondent and the petitioner.

7. This Court cannot conduct any roving enquiry over the dispute between the petitioner and the respondents. However, this Court would find it appropriate to direct the petitioner to approach the District Collector, who is the first respondent herein with regard to the payment of the said sum of Rs.4,74,350/- (Rupees Four lakhs Seventy Four thousand Five hundred and fifty only) and give a representation within a period of two weeks from the date of receipt of a copy of this order. The first respondent is directed to consider the said representation to be given by the petitioner by affording an opportunity of personal hearing to the petitioner, as well as to other necessary parties, if any and pass orders on the representation with regard to the payment of amount towards damages within a period of four weeks, thereafter.

8. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

सतयमेव जयते
Sub Assistant Registrar

glp
ssv
To

1. The District Collector
Salem District Salem.
2. The Village Administrative Officer
Pattuthurai Village
Attur Taluk Salem District

+1 cc to Government Pleader, sr.9364
+1 cc to M/s.Aiyar & Dolia, Advocates, sr.9269
+1 cc to Mr.S.Doraisamy, Advocate, sr.9741

W.P.No.37743 of 2015

tej co
kra 08.03.2016