

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2016

C O R A M

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.40618 of 2015
and M.P.No.1 of 2015

1.P.N.Sachidanandam
2.P.N.Deenadayalan
3.P.N.Ambalavanan
4.P.N.Gunasekar

...Petitioners

-Vs-

1.The Special Tahsildar (L.A.,)
Kannankottai-Thevoy Kandiagi
Reservoir Scheme Unit-IV
at Kavaraipet Village &Post
Gummidipoondi Taluk
Thiruvallur District
2.The Special District Revenue Officer
Kannankottai-Thevoy Kandiagi
Reservoir Scheme
at Janapanchatram Village
Ponneri Taluk
Thiruvallur District

3.T.Udayakumar
4.Balaraj
5.The State of Tamil Nadu
Rep. By the District Collector
Thiruvallur District
Thiruvallur

...Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the respondents 1 and 2 and particularly the 2nd respondent to refer the dispute between the petitioners herein on the one hand and the 4th respondent herein on the other hand in respect of the apportionment of compensation amount payable in respect of the lands measuring Hectare 0.20.5 Ares that is Acre 0.52 cents comprised in old S.No.203/2-Part and presently in New S.No.203/2B at Senjiagaram Village in Uthukottai Taluk, Thiruvallur District, under Section 30 old Land Acquisition Act 1894 before the Subordinate Judge Court at Thiruvallur, which is the Land Acquisition Tribunal Concerned, and consequently to

direct the respondents 1, 2 and 5 to deposit the initial compensation amount already disbursed to the 4th respondent and also the further compensation amount payable in respect of the above referred land before the said Tribunal.

For petitioners : Mr.R.Krishnaswamy

For respondents : Mr.R.Rajeswaran, Spl.Govt Pleader
for R1, R2 and R5

Mr.P.Ravishankar Rao for R3
No appearance for R4.

O R D E R

Heard Mr.R.Krishnaswamy, learned counsel for the petitioners and Mr.R.Rajeswaran, learned Special Government pleader for the respondents 1, 2 and 5 and Mr.P.Ravishankar Rao, learned counsel for third respondent.

2. The petitioners have filed this writ petition praying for issuance of a Writ of Mandamus to direct the 2nd respondent to refer the dispute between the petitioners and the 4th respondent in respect of the apportionment of compensation amount payable in respect of the lands measuring Hectare 0.20.5 Ares that is Acre 0.52 cents comprised in old S.No.203/2-Part and presently in New S.No.203/2B at Senjiagaram Village in Uthukottai Taluk, Thiruvallur District, under Section 30 of the Land Acquisition Act to the Sub Court, Thiruvallur.

3. The lands in question were subject matter of land acquisition proceedings for formation of new Reservoir in Kannankottai-Thevoykandigai Village by the Public Works Department and the Government has published G.O.Ms.No.289, Public Works Department, dated 05.11.2013 in the Tamil Nadu Government Gazette-Part II Section II on 06.11.2013. This notification pertains to the Survey No.203/2. It is further pleaded that Notification under Section 4(1) of Land Acquisition Act, 1894 as approved by the Government in G.O.Ms.No.259, Public Works Department, dated 09.10.2013 was published at Page Nos.1 and 4 of the Tamil Nadu Government Gazette Issue No.294 on 10.10.2013 followed by the publication of the same in two Dailies-The New Indian Express (English) and Dr.Namadhu M.G.R. (Tamil) on 18.10.2013. It is also stated that Draft Declaration under Section 6 of Land Acquisition Act, 1894 as approved by the Government in G.O.Ms.No.289, Public Works Department dated 05.11.2013 was published at Page Nos.1 and 4 in the Tamil Nadu

Government Gazette, Part -II, Section -II Issue No.322 on 06.11.2013 followed by the publication of the same in two Dailies. Draft Direction under Section 7 of the Land Acquisition Act, 1894 was approved by the District Collector, Thiruvallur, in R.C.No.7/A/2013, dated 21.11.2013.

4. It is also stated that in view of the urgency of the acquisition, the provision of Section 5A of the Land Acquisition Act, 1894 was dispensed with under Sub Section (4) of Section 17 of the said Act.

5. In the instant case, the issue is not related to acquisition proceedings, but with regard to payment of compensation and who is entitled for the compensation.

6. It is seen that the petitioners have submitted an objection on 26.03.2014 and the 4th respondent has also submitted an application seeking for payment on 19.01.2015, pursuant to which, the Special Tahsildar had issued notice dated 27.01.2015 to all the petitioners calling upon them to appear for enquiry. However, it appears that nothing turned out of those proceedings and in the counter affidavit, it has been admitted that a portion of the compensation has been disbursed to the 4th respondent.

7. In the counter affidavit, it has been admitted that the petitioners have objected on 26.03.2014 and 18.02.2015 with regard to initial payment of compensation to the 4th respondent. However, it has to be stated that the Special Tahsildar, who is in-charge of the Land Acquisition Proceedings cannot adjudicate the rival claims. In fact, when he thought fit to call the parties for an enquiry, based on a proceedings dated 27.01.2015, the authority should have referred the matter to Civil Court and without doing so, ought not to have virtually decided the issue relating to the title.

8. In the light of the above, this Court is fully convinced that the matter has to be referred to the civil court of competent jurisdiction for determination as regards entitlement of compensation by the petitioners or the 4th respondent.

9. Since already part of the compensation has been disbursed to the 4th respondent, the learned counsel for the petitioners states that he will work out his remedy separately and the remaining compensation should not be disbursed till the civil court takes a decision in the matter. Since this court has directed the matter to be referred to the civil court as indicated earlier, no further disbursement of the compensation shall be made and the same shall abide by the order of the civil court.

10. In the light of the above reasons, the Writ Petition is disposed of by directing the respondents 1 and 5 to refer the matter to the civil court to decide as to who is entitled for compensation viz., the petitioners or the 4th respondent and abide by decision of the court. No costs. Consequently, connected MP is closed.

Sd/-
Assistant Registrar(V)

//True Copy//

Sub Assistant Registrar

nvsri

To

- 1.The Special Tahsildar (L.A.,)
Kannankottai-Thevoy Kandiagi
Reservoir Scheme Unit-IV
at Kavaraipet Village &Post
Gummidipoondi Taluk
Thiruvallur District
- 2.The Special District Revenue Officer
Kannankottai-Thevoy Kandiagi Reservoir Scheme
at Janapanchatram Village
Ponneri Taluk
Thiruvallur District
- 3.The District Collector
Thiruvallur District
Thiruvallur

+1cc to Mr.V. Ajoy Khose, Advocate, S.R.No.8627

+1cc to the Government Pleader, S.R.No.8853

CTK(CO)
EU(23/02/2015)

W.P.No.40618 of 2015