IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.03.2016

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The Hon'ble Mr.Justice T.S.SIVAGNANAM

Writ Petition No.437 of 2015

1.N.Jayanthi
2.V.Amaravathy ...Petitioners

Vs.

1 The District Collector
Salem District Salem.

2 The Special Tahsildar
(Land Acquisition) No.68 National Highways
Salem.

3 The Assistant Director
(Urban Land Tax) and Competent Officer
(Urban Land Ceiling) Salem.

4 The Director
Urban Land Ceiling and Urban Land Lax
Chepauk Chennai.

5 The Tahsildar
Revenue Department,Salem District,Salem
R-5 is impleaded
as per order of this Court dated 16/12/2015
in MP.No.1/2015 in WP.437 of 2015

6. The Joint Commissioner (Urban Land Tax) Erode
Suo motu impleaded by the order
of this Court dated 16.03.2016 ...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the respondents to pay compensation for the property acquired from both the petitioners by the respondents complying with the order dated 23.07.2010 made in WP.No.8613 of 2004 on the file of this Honourable Court with accrued prevailing rate of interest.

For Petitioner : Mr.T.P.Prabakaran

For Respondents : Mr.R.Rajeswaran,
Spl.G.P for R1 to 4

Mr.R.Lakshminarayanan, AGP for R5

O R D E R

Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents.

2. It is an unfortunate case, where the authorities are driving the petitioners from pillar to post and preventing them from availing compensation which they are entitled to as the lands in question have been acquired for the project in National Highways.

3. The lands owned by the petitioners and others were taken over under the provisions of The Tamilnadu Urban Land (Ceiling and Regulation) Act, 1978. The challenge to the proceedings were pending before the Tribunal and after the abolition of the Tribunal the matter stood transferred to this Court and re-numbered as W.P.No.8613 of 2004, which questioned the order passed by the Assistant Commissioner cum Competent Authority (ULC) Salem in S.R.A.No.68/91/A1 dated 15.11.1991.

4. The petitioners herein were the 8th and 11th petitioner in the said writ petition. The Court heard the matter in detail and by an elaborate order dated 23.07.2010, allowed the writ petition quashed the order passed by the Assistant Commissioner Salem dated 15.11.1991 and held that the petitioners are entitled to Section 4 of Tamilnadu Act 20 of 1999. The said Act was an repealing Act by which the principle Act should repealed. Thus by virtue of the order passed in the earlier writ petition, the lands no longer belong to the Government as the acquisition proceedings under the Urban Land Ceiling Act were held to stand abated. The natural consequence that has to follow is that the revenue entries maintained by the 5th respondent has to be changed and the petitioners have to be shown as pattadhars. However, this appears to have not been done and in the meantime the 2nd respondent initiated proceedings and acquired the lands for the purpose of a project conceived by the National Highways Authorities. Therefore, now the petitioners do not have the land and they have been denied payment of compensation by the 2nd respondent on the ground that the land as on date stands registered as Government land. This has prompted the petitioners to approach this Court by filing this writ petition.

5. Notice was taken on behalf of the respondents on 09.01.2015, and the matter stood adjourned for almost a year. When the case came up before this Court on 26.11.2015, the matter was adjourned to 16.12.2015 with a direction to the 2nd respondent to file counter. On the direction issued by this Court, the Thasildar Salem was impleaded as a 5th respondent by order dated 16.12.2015 and the learned Additional Government Pleader accepted notice for the 5th respondent. Subsequently, the matter was adjourned four occasions so that a counter can be filed. Today, the learned Addl.Govt.Pleader has produced a draft counter affidavit which he appears to have been forwarded to the 5th respondent for signature. To say the least the counter affidavit virtually has washed off the problem and the insensitive approach of the 5th respondent is vivid from the counter affidavit.

6. After the order passed in the earlier writ petition if the revenue entries are not restored to the names of original land owners, it would amount to disobedience of the earlier order passed by this Court. The 5th respondent has stated that he has no power to change the Revenue entries and it can be done only by the Joint Commissioner (Urban Land Tax) Erode.

7. In the light of the stand taken by the 5th respondent, the said authority is suo motu impleaded as 6th respondent in this writ petition. Instead of taking such a stand in the counter affidavit the 5th respondent could have addressed the Joint Commissioner (Urban Land Tax) Erode for necessary action, since ultimately the patta has to be issued by the 5th respondent. However, for reasons best known the 5th respondent has adopted such a stand in the counter, as a result the claim made by the petitioners would be further delayed.

8. Considering the above fact, there will be a direction to the 6th respondent to change the revenue entries in the names of the petitioners in the light of the order passed in W.P.No.8613 of 2004 dated 23.07.10 within a period of six weeks from the date of receipt of a copy of this order and consequent upon that the 5th respondent shall issue appropriate orders showing that the petitioners are lawfully entitled to the property. This order should be passed by the 5th respondent within a period of four weeks from the date on which the 6th respondent makes necessary correction. With these records the petitioners shall approach the 2nd respondent who shall disburse the compensation upon due verification within eight weeks thereafter.

9. Accordingly, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1 The District Collector
Salem District Salem.

2 The Special Tahsildar
(Land Acquisition) No.68 National Highways
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5 The Tahsildar
Revenue Department,Salem District,Salem

6. The Joint Commissioner (Urban Land Tax) Erode.

+1cc to Mr. T.P. Prabkaran, Advocate, S.R.No.16927

+1cc to the Government Pleader, S.R.No.17370

AD(CO)
EU(27/04/2016)