

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.04.2016

Coram

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

Writ Petition Nos.8061, 8137 and 8138 of 2016

1. Mayangammal @ Mayangathal ...Petitioner in W.P.No.8061/2016
rep. by her Power Agent,
Rangasamy.
2. A.Mohamed Faruk ...Petitioner in W.P.No.8137/2016
3. Zainubu Begum ...Petitioner in W.P.No.8138/2016

Vs.

1. The District Collector,
Coimbatore District,
Coimbatore.
2. The Chairman,
Tamil Nadu Electricity Board,
Anna Salai,
Chennai - 600 002.
3. The Additional Chief Engineer/Civil,
Hydro Electric Scheme,
No.955, E.V.N. Road,
Erode - 9. ...Respondents in all W.Ps.

Prayer in W.P.No.8061/2016:-

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the first respondent to determine the amount of compensation under Section 93(2) of the Right to Fair Compensation, Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for damages caused to the land in S.F.No.458, Town Survey No.9/3, Chikkadasampalayam Village in Patta No.1984, Mettupalayam Taluk, Coimbatore District, belonging to the petitioner in accordance with law, and consequently, to direct the respondents 2 and 3 to pay the compensation as fixed by the respondent No.1, within a time frame, fixed by this Court.

Prayer in W.P.No.8137/2016:-

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the first respondent to determine the amount of compensation under Section 93(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for damages caused to the land in S.F.No.13/3A, now Town Survey No.A/4/69, admeasuring to an extent of 58 cents (0.2350.0 sq.ft.) Odandurai Village in Patta No.2, and in S.F.No.459/1B1, 459/B2 now T.S.No.C/1/2-5, admeasuring to an extent of 91 cents (0.3800.0 sq.ft) in patta No.58, Chikkadasampalayam Village, Mettupalayam Taluk, Coimbatore District, belonging to the petitioner in accordance with law, and consequently, to direct the respondents 2 and 3 to pay the compensation as fixed by the respondent No.1, within a time frame, fixed by this Court.

Prayer in W.P.No.8138/2016:-Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the first respondent to determine the amount of compensation under Section 93(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for damages caused to the land in S.F.No.55/8, 55/9, 55/9, (T.S. No.A/4/65, 67, 68) admeasuring to an extent of 4.53 acres in Patta No.16, Odenthurai Village, Mettupalayam Taluk, Coimbatore District, belonging to the petitioner in accordance with law, and consequently, to direct the respondents 2 and 3 to pay the compensation as fixed by the respondent No.1, within a time frame, fixed by this Court.

For Petitioner	:	Mr.G.Krishnakumar
For Respondent-1	:	Mr.R.Rajeswaran
		Spl Government Pleader
For Respondents 2 & 3	:	Mr.S.K.Raameshuwar,
		Standing Counsel

COMMON ORDER

The petitioners have filed these Writ Petitions praying for issuance of a writ of mandamus to direct the first respondent/District Collector to determine the amount of compensation under Section 93 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 30 of 2013, for the damages caused to their properties.

2. Since the issue involved in these Writ Petitions is identical in nature, they have been taken up together, and disposed of by this common order.

3. Heard the learned counsel appearing for the parties, and perused the materials placed on record. In the light of the relief sought for in these Writ Petitions, I am of the opinion that it may not be necessary to refer to the earlier round of litigations, and suffice to note whether damage has been caused to the petitioners' properties, and Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO) had entered into the petitioners' property, without prior authorization by the District Collector, though it is now stated that TANGEDCO has abandoned the property, as it is not required by them. The petitioners approached the first respondent/District Collector to pay compensation under Act 30 of 2013, and submitted representations on 28.01.2016.

4. When the Writ Petitions came up for admission before this Court, taking into consideration the hard facts, this Court passed the following order:-

"The petitioners in these Writ Petitions claim for compensation under Section 93(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, for the damages caused to their property, on account of the action initiated by the respondent Board.

2. The lands were not acquired, yet the Board proceeded to utilize the lands for its Project and on complaints being raised by the petitioners, the District Collector, Coimbatore, vide Proceedings dated 28.07.2015, fixed the compensation for the lands utilized by the Board without acquisition proceedings at the rate of Rs.750/- per sq.ft. This Order was challenged by the Superintending Engineer / Civil, Hydro Projects, Erode, by filing a Writ Petition in W.P.No.30086 of 2015, however the said Writ Petition was dismissed as withdrawn on 22.01.2016. The petitioners seek for grant of compensation for the lands, which were utilized without any acquisition proceedings, though at this stage, the Board does not want the lands in question.

3. Earlier, the landowner/petitioner in W.P.No.8061 of 2016 sought for a direction to pay adequate compensation to her in respect of the land coming under the

submersible area of the check dam, raised for storage of water for generation of Hydro Electric Power Generation Scheme across the Bhavani River at Mettupalayam. The said Writ Petition was disposed of on 18.02.2015 with a direction to the first respondent to fix the compensation within a period of eight weeks. This was not done by the first respondent and that Order was challenged by the Board and the Writ Petition was withdrawn.

4. Earlier, the petitioners filed Contempt Petitions in Cont.P.Nos.1547 to 1549 of 2015, alleging willful disobedience of the Orders passed by this Court in W.P.Nos.34418, 34419 and 33026 of 2014. The Board contended that the petitioners have to approach the Civil Court for claiming compensation. Taking note of the submission, the Court observed that in the Contempt Petitions, there cannot be a direction to pay compensation for damages caused to the petitioners lands and observed that it is open to the petitioners to claim compensation from the Competent Authority of the respondent Board before the appropriate forum.

5. Subsequently, the Contempt Petitions were heard on 22.01.2016 and the Contempt Petitions were closed since the respondent TANGEDCO took a stand that they will raise the level of the petitioners land, after getting authentication for the extent of land affected from the Revenue Department as well as Water Resource Organization (WRO) of Public Works Department. In the said Order dated 22.01.2016, there is no specific prohibition made by this Court for the petitioners right to claim compensation. Therefore, the petitioners are before this Court by way of these Writ Petitions.

6. Prima facie, I am of the view that the lands having utilized for certain period of time by the Board without any acquisition proceedings, the petitioners would be entitled to compensation and for which purpose, the petitioners need not be driven to the Civil Court and the District

Collector of Coimbatore, could determine the compensation. Therefore, there will be a direction to the first respondent to direct one of his Senior Officers to inspect the property ascertaining the full details and submit a report before this Court by the next hearing date. It is needless to state that the inspection should be conducted in the presence of the landowners as well as the Officials of the respondent-Board.

List the matter on 07.04.2016."

5. In terms of the aforesaid order, a report has been filed by the Revenue Divisional Officer, (R.D.O.) Coimbatore (North) in the form of a counter affidavit, and on a cursory reading of the report, it is evidently clear that TANGEDCO had entered upon the petitioners' properties, without obtaining prior permission of the first respondent/District Collector, and damage has been caused to the properties, for which, they are liable to pay compensation to the petitioners. Inspection has been done in the presence of Officials of TANGEDCO, and therefore, TANGEDCO cannot wriggle out of their liability to pay compensation.

6. That apart, the learned counsel appearing for petitioners referred to the admission made by TANGEDCO in their affidavit filed in the Contempt Petitions filed by the petitioners, viz., Cont.P.Nos.1547 to 1549 of 2015, wherein, TANGEDCO stated that arrangement will be made by TANGEDCO for raising the level of the land after getting authentication from the Revenue Department as well as Water Resource Organization (WRO) of Public Works Department, for the extent of land affected.

7. Thus, in the light of the above stand taken by the parties, in the earlier round of litigation as well as in present Writ Petitions, the only issue, that needs to be resolved in these Writ Petitions is what would be the quantum of compensation that TANGEDCO is liable to pay. With regard to the proposal of R.D.O. for construction of the revetment, the Superintending Engineer (Civil) Hydro Project, Erode, in his written instructions given to the learned Standing Counsel on 20.04.2016, has referred to the views of the Executive Engineer, P.W.D./W.R.O/Bhavanisagar, who appears to have stated that, if any protection wall is constructed by TANGEDCO, the river course width will be reduced, and endanger the flood water, and it may enter into the houses in the upstream side of Bhavani Barrage - II.

8. In the light of the above facts, and taking into consideration the report qua counter affidavit, filed by R.D.O. fixing the liability on TANGEDCO, there will be a direction to the first respondent/District Collector, Coimbatore, to consider the petitioners' representation, dated 28.01.2016, made individually, and enquire into the matter after notice to the petitioners and TANGEDCO, call for entire records and decide the quantum of compensation payable to the petitioners for the damages caused to their properties. The first respondent/District Collector shall also go into the aspects with regard to the construction of the revetment, which shall also be one of the issues to be decided by him while deciding the quantum of compensation payable to the petitioners.

9. With the above directions and observation, all Writ Petitions are disposed of. No costs.
sd

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The District Collector,
Coimbatore District,
Coimbatore.
2. The Chairman,
Tamil Nadu Electricity Board,
Anna Salai,
Chennai - 600 002.
3. The Additional Chief Engineer/Civil,
Hydro Electric Scheme,
No.955, E.V.N. Road,
Erode - 9.

+ 1 cc to Mr.G.Krishnakumar, Advocate SR 25012

+ 1 cc to Govt.Pleader SR 24947

+ 1 cc to Mr.S.K.Raameshuwar, Advocate SR 25129

sv(co)
prk1/6

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