

HON' BLE SRI JUSTICE SURESH KUMAR KAIT

Writ Petition No.11321 of 2016

ORDER:

Vide present writ petition, petitioner seeks a direction thereby directing respondents 2 to 5 to pay compensation amount to the petitioner for her acquired land to an extent of Ac.0.51 cents in Sy.No.529/ 1 situated at Brahmadevam Village, Muthukur Mandala, SPSR Nellore District, for the purpose of road widening under land acquisition proceedings.

2. In the writ affidavit, it is stated that the petitioner is the lawful owner of the land mentioned above and the same was purchased by her from one K.N.Ranga Swamy S/o Tata Chary R/o Gopuram Street, Ranganakulapet, Nellore, vide sale deed Document No.314/ 2001 dated 24.05.2001 on the file of the Office of the Sub-Registrar, Muthukur, Nellore District. Since then, she is in possession and enjoyment of the said property and cultivation of the land is only avocation and source of income of her family livelihood. After purchase of the said land in the year 2001, the Government, more particularly, the 5th respondent- Department i.e., Panchayat Raj Department, has asked her to give Ac.0.51 cents of land for the purpose of extension of road connecting to between Nellore to Muthukur Road from her village, without any land acquisition proceedings and the 5th respondent has promised her for payment of appropriate compensation as per law. Accordingly, she handed over an extent of Ac.0.51 cents of land for formation of road believing the promise made by the 5th respondent. The road was extended in her land and till today, all types of vehicles are running in her land. It is further stated that to her misfortune from the date of her

handing over the land to the 5th respondent, till this date, she has not received any compensation.

3. It is not in dispute that this land in question was handed over to the 5th respondent by the petitioner on 26.02.2004 and till date, she has not received any compensation amount for the said land.

4. The 4th respondent-The Tahsildar, Muthukur Mandal, in its counter-affidavit, stated that the Mandal Revenue Inspector reported that on the request of the villagers of R.C.Kandriga, an extent of Ac.0.51 cents of land in Sy.No.529/ 1 relating to the petitioner was handed over to the Panchayat Raj Department, for formation of link road/ extension of road from R.C.Kandriga to Nellore-Muthukur road, long back and transportations are made on the road and at present, the land is classified as 'Donka Poramboke'.

5. In the counter-affidavit filed by the 5th respondent-Executive Engineer, Panchayat Raj Department, it is stated that the petitioner in her representation dated 26.02.2014 addressed to the Executive Engineer, Panchayat Raj, Nellore, stating that her land was taken for formation of road five years back and requested to certify the same. It is evident that the petitioner had not handed over the land on 26.02.2004 as stated by her in the affidavit. In the instant case, the villagers had purchased the requisite land from the petitioner during 1997 for formation of the road. It is further submitted that vide letter Pc.No.A2/ 2004, dated 08.03.2004 addressed to the 4th respondent-Mandal Revenue Officer, Muthukur by the then Executive Engineer, Panchayat Raj, Nellore, stated that the road was formed five years back and also part of the road passed through patta land and requested the Mandal Revenue Officer to proceed with the land acquisition. The then Executive Engineer did not mention that Panchayat Raj Engineering

Department will pay the compensation, as there is no provision in the department budget for payment of compensation. If the land owner wilfully agrees then only this department will proceed with the execution of the road work.

6. Learned counsel for the above respondent further submits that the claim of the petitioner is that she purchased the land on 24.05.2011, whereas the record of the 5th respondent shows that road was formed during the year 1997-98. In the affidavit filed by the 5th respondent, it is further submitted that the road was formed with the willingness of the land owner as stated by the villagers, duly paying Rs.10,000/- contributed by them during 1997. Therefore, the question of paying compensation after 19 years of road usage does not arise. The said respondent further submitted that during his visit to the road along with the Assistant Executive Engineer (PR) Nellore-II on 01.09.2016, it is observed that the road is only unmetalled gravel road and a portion of 130 meters adjoining the village passes through patta land. More over along this road also the petitioner has sold a portion of land along 80 meters length to house sites and the balance left over length of road portion is only 50 meters, the approximate area is about Ac.0.10 cents. Since the road is also an approach road to the house sites sold by the petitioner, there is no need to pay for the compensation.

7. On perusal of the counter-affidavit filed by the 5th respondent, it is established that the road is unmetalled gravel road and a portion of 130 meters adjoining the village passes through patta land. The 5th respondent, though stated that the petitioner had handed over this land to the Panchayat Raj Department, Nellore, on receiving a sum of Rs.10,000/- from the villagers, however, none of the respondents has produced any receipt of amount of Rs.10,000/- showing that the

petitioner had received an amount of Rs.10,000/- and thereafter handed over the land for the purpose of formation of road. Since the petitioner has stated that she handed over the land on the assurance that she will receive compensation amount, the plea of the 5th respondent stated that the land was purchased for an amount of Rs.10,000/- by the villagers and paid the amount to the petitioner cannot be accepted. The position would have been different that if the respondents had paid the amount to the petitioner and now petitioner is denying the same and filed the writ petition, which is not the situation in the instant case. Only by stating that she purchased the land some where in the year 2001 and *kachcha* road was laid in the year 1997-98, that does not make her disentitle for getting compensation, when it is admitted that the land was acquired for the purpose of formation of road from petitioner. It is no where stated either of the respondents in their counter-affidavits that the land does not belong to the petitioner and it belongs to some one else. Thus, it is established that the land belongs to the petitioner and the respondents have not paid even single penny till date for acquisition of the land. In view of the facts recorded above, I am of the opinion that the petitioner is entitled for the compensation as per law established.

8. Moreover, on perusal of the record, the 5th respondent requested the 4th respondent-Mandal Revenue Officer, Muthukur Mandal, vide his letter in Rc.No.A2/ 2004 dated 08.03.2004 to proceed with the land acquisition and inform to him about the action taken in the matter. Thereafter, vide letter in Rc.B.70/ 2005 dated 31.03.2005, the 3rd respondent-Revenue Divisional Officer, Nellore, sent a communication to the 5th respondent, whereby he stated that the 4th respondent-Mandal Revenue Officer, Muthukur, submitted proposals for acquisition of land in Sy.No.528/ 1B, an extent of Ac.0.06 cents; in Sy.No.529/ 1B an extent

of Ac.0.45 cents and in Sy.No.544/ 1 an extent of Ac.0.10 cents, total Ac.0.61 cents and as per the directions of the District Collector, he requested the 5th respondent to send requisition for the above survey numbers and extents and deposit an approximate amount of Rs.1,00,000/- in favour of the 3rd respondent, so as to enable him for submitting the information to the District Collector, Nellore. However, the matter is pending till date and so far, the 5th respondent has not sent any requisition to acquire the land or deposited the amount as requested by the 3rd respondent-Revenue Divisional Officer.

9. Be that as it may, the petitioner has not received any compensation, despite her land has been acquired. Therefore, I direct the respondents to sit together in the office of the first respondent and decide the same, who has to proceed for the requisition and who shall pay the compensation to the petitioner. The decision on this issue shall be taken by the respondents within one week from the date of receipt of a copy of this order. Thereafter, the proceedings shall be convened within one week and they shall complete all the formalities within four weeks thereafter.

10. In all sense, the respondents shall pay the compensation amount to the petitioner within two months from the date of receipt of a copy of this order. I hereby made it clear that since the petitioner has not received any amount, though the land was acquired in the year 2004 and twelve years have been lapsed, therefore, if any of the respondents tried to shift the burden on the other respondents, the inaction of the said respondent would be amount to contempt of this court.

11. With the above direction, the writ petition is disposed of. I hereby made it clear that if the petitioner is aggrieved by the action or inaction of any of the respondents, liberty is granted to the petitioner to

take appropriate steps available under law. No order as to costs.
Pending miscellaneous petitions, if any, in this petition, shall stand closed.

Date: 14.09.2016
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SURESH KUMAR KAIT, J



HON' BLE SRI JUSTICE SURESH KUMAR KAIT

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