

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2017

CORAM :

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.739 of 2017

Muthan Poojari

... Petitioner

vs.

1. The District Collector
Dharmapuri District,
Dharmapuri - 636 705.

2. The Special Tahsildar
Adi Dravida Welfare-cum-
Land Acquisition Officer,
Dharmapuri - 636 705.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus, directing the respondents to consider the petitioner's last representation, dated 17.06.2016 and direct the respondents to deposit Award amount with interest till date in L.A.O.P.No.6 of 1993 before the Sub-Court, Dharmapuri, so as to enable the petitioner to receive the compensation.

For petitioner : Mr.V.R.Annagandhi

For respondents : Mr.R.Govindasamy, Spl.G.P
for R1 and R2

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ORDER

This writ petition has been filed seeking a peculiar prayer to issue a writ of mandamus, directing the respondents to consider the petitioner's latest representation, dated 17.06.2016 directing the respondents to deposit the Award amount with interest till date in L.A.O.P.No.6 of 1993 before the Sub-Court, Dharmapuri, so as to enable the petitioner to receive the compensation.

2. Learned counsel appearing for the petitioner would submit that the lands measuring about 1.48 acres in S.No.383/3B was acquired by the respondents for the purpose of providing house site to the Adi Dravida people of Virupatchipuram village, Dharmapuri Taluk After the issuance of 4(1) Notification, dated 13.09.1989, the same was also published in the Tamil Nadu Government Gazette. Thereafter, the second respondent has fixed the compensation as Rs.40,000/- per hectare and passed Award on 22.03.1991.

3. Subsequently on the request, the matter referred under Section 18 of the Land Acquisition Act and L.A.O.P.No.6 of 1993 was also disposed of by order, dated 01.08.1996 enhancing the land value and determined the compensation at Rs.7/- per sq. ft and after deduction of Rs.2/- per sq.ft fixed a sum of Rs.5/- per sq.ft as compensation and other statutory benefits. Although three months time was granted to deposit the compensation amount by the respondents, no appeal has been filed. The second respondent deposited a sum of Rs.6,38,094/- out of Rs.7,63,778/- on 01.02.1998 including the statutory benefits. Thereafter, the petitioner also filed E.P.No.37 of 2002 in L.A.O.P.No.6 of 1993 for realisation of the decretal amount.

4. The learned Judge has also passed order of attachment of warrant against the respondents in the above E.P. Proceedings and till date warrant is pending. But no action is taken for realisation of the Award Amount. The petitioner also made a several representation to the respondents and the last such representation is dated 17.06.2016. Since no action has been taken on the said representation, the petitioner has been advised to come to this Court.

5. But this Court is not able to entertain the writ petition. The reason is that when the petitioner has already filed E.P.No.37 of 2002 to execute the Judgment and Decree passed in L.A.O.P.No.6 of 1993 and consequently the learned Judge also passed an order of attachment of warrant against the respondents in the EP, it is for the petitioner to work out his remedy in the manner known to law. Therefore, the writ petition seeking writ of mandamus directing to consider the representation of the petitioner, dated 17.06.2016 to direct the respondents to deposit the Award amount cannot be entertained. Moreover, when the Execution Proceedings are still pending with the order of attachment of warrant against the respondents, this Court cannot entertain the writ petition and accordingly, the same is liable to be dismissed.

In view of the above, this writ petition is dismissed. No costs.

sd/
Assistant Registrar(CS III)

/true copy/

Sub Assistant Registrar

tsvn

To

1. The District Collector
Dharmapuri District,
Dharmapuri - 636 705.
2. The Special Tahsildar
Adi Dravida Welfare-cum-
Land Acquisition Officer,
Dharmapuri - 636 705.

+1cc to Mr.V.R.Annagandhi, Advocate, SR.NO.2836
+1cc to the Government Pleader SR.No.2630

SV(CO)
GN(31/01/2017)

W.P.No.739 of 2017

सत्यमेव जयते
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