

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.10426 of 2004

K.P.Muruganandham .. Petitioner
Vs.

1. State of Tamil Nadu,
rep. by the District Collector,
Coimbatore District,
Collectorate, Coimbatore.
2. The Superintending Engineer,
Public Works Department,
Parambikulam-Aliyar Circle,
Pollachi-3.
3. The Executive Engineer,
Public Works Department,
Parambikulam Division,
Parambikulam, Pollachi via. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents to re-transfer the un-utilised/un-required portion of the lands acquired by them from the petitioner measuring 3 acres and comprised in S.F.Nos.581/1B, 581/1A2 and 582/2 (i.e. 0.10 cents in S.F.No.581/1-B, 2.80 acres in S.F.No.581/1-A-2 and 0.10 cents in S.F.No.582/2) in Vettaikaranpudur Village, Pollachi Tk. to the petitioner on repayment of the amount paid to him as compensation for the same as provided under Section 48-B of the Land Acquisition Act or its cost price as provided under Clause (3) of Order 32 of the Board Standing Orders.

For Petitioner : Mr.T.P.Manoharan, Senior Counsel
for M/s.V.S.Kumaraguru
For Respondents : Mr.Akhil Akbar Ali, Govt. Advocate

ORDER

The petitioner has come forward with above writ petition praying for issuance of a Writ of Mandamus to direct the respondents to re-transfer the un-utilised/un-required portion of the lands acquired by them from the petitioner measuring 3 acres and comprised in S.F.Nos.581/1B, 581/1A2 and 582/2 (i.e. 0.10 cents in S.F.No.581/1-B, 2.00 acres in S.F.No.581/1-A-2 and 0.10 cents in S.F.No.582/2) in Vettaikaranpudur Village, Pollachi Tk. to the petitioner on repayment of the amount paid to him as compensation for the same as provided under Section 48-B of the Land Acquisition Act or its cost price as provided under Clause (3) of Order 32 of the Board Standing Orders.

2. The relief sought for by the petitioner in this Writ Petition cannot be granted as such. Though the learned Senior Counsel appearing for the petitioner drew the attention of this Court to the order dated 06.07.2011 passed in W.P.No.7685 of 2004, in respect of the very same lands, seeking to treat the lease granted to the petitioner by the respondents, which was for a minimum period of three years as prescribed in G.O.Ms.No.2168, Public Works Department, dated 03.11.1987 from the date of commencement of the lease, i.e. from 01.04.2003 and not to disturb the possession and cultivation of the same as a lessee till the expiry of the said period, which was disposed of by this Court with certain directions, which was confirmed by the Division Bench of this Court in Writ Appeal No.1522 of 2013, dated 27.08.2013, the prayer sought for in the present Writ Petition is completely different from the one sought for in W.P.No.7685 of 2004. In W.P.No.7685 of 2004, the very same writ petitioner has also sought for not to disturb his possession and cultivation as a lessee till the expiry of the period in question therein. It is further stated that re-conveyance request was also pending before the authorities. Learned single Judge in W.P.No.7685 of 2004 has observed that till a decision is taken with regard to re-conveyance by the authority, the petitioner shall continue to be a lessee of the said lands on payment of appropriate rent as levied by the respondent-Department with any periodical increase, as ordered by the Government from time to time. In the said Writ Appeal in W.A.No.1522 of 2013, the Division Bench has observed that the very same writ petitioner has continued in possession for more than four decades and cultivating the land and there is no justification to disturb him and the competent authority shall pass appropriate orders on the application filed by the writ petitioner filed for re-conveyance.

3. Taking note of the above observations, this Court is not inclined to grant the relief sought for in the present Writ petition as such prayed for and if the relief sought for is granted, it would amount to directing the respondents to re-convey the land, for which the petitioner may or may not be entitled to. If specific direction is given, it will only open the Pandora's Box and even the writ petitioner may get the relief, if he is otherwise not entitled to as prayed in W.P.No.7685 of 2004. Hence, this Court is of the view that the petitioner's request for re-conveyance shall be considered in the light of the observations made by the Division Bench in paragraph 5 therein, i.e. the competent authority shall pass appropriate orders on the petitioner's application for re-conveyance of the land(s). When such are the observations made therein in the Writ Appeal, the relief sought for by the very same petitioner in this writ petition cannot be granted. The application of the petitioner for re-conveyance if any, is pending as on date, the same shall be considered by the respondents if the petitioner is otherwise entitled to and such orders shall be passed if not already passed, on merits and in accordance with law, after hearing the petitioner and other parties aggrieved, and a decision thereon shall be taken on the said re-conveyance, within a period of one month from the date of receipt of a copy of this order.

4. With the above observations and direction, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar

/TRUE COPY/

सत्यमेव जयते
Sub Assistant Registrar

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To

1. The District Collector,
Coimbatore District,
Collectorate, Coimbatore.
2. The Superintending Engineer,
Public Works Department,
Parambikulam-Aliyar Circle,
Pollachi-3.

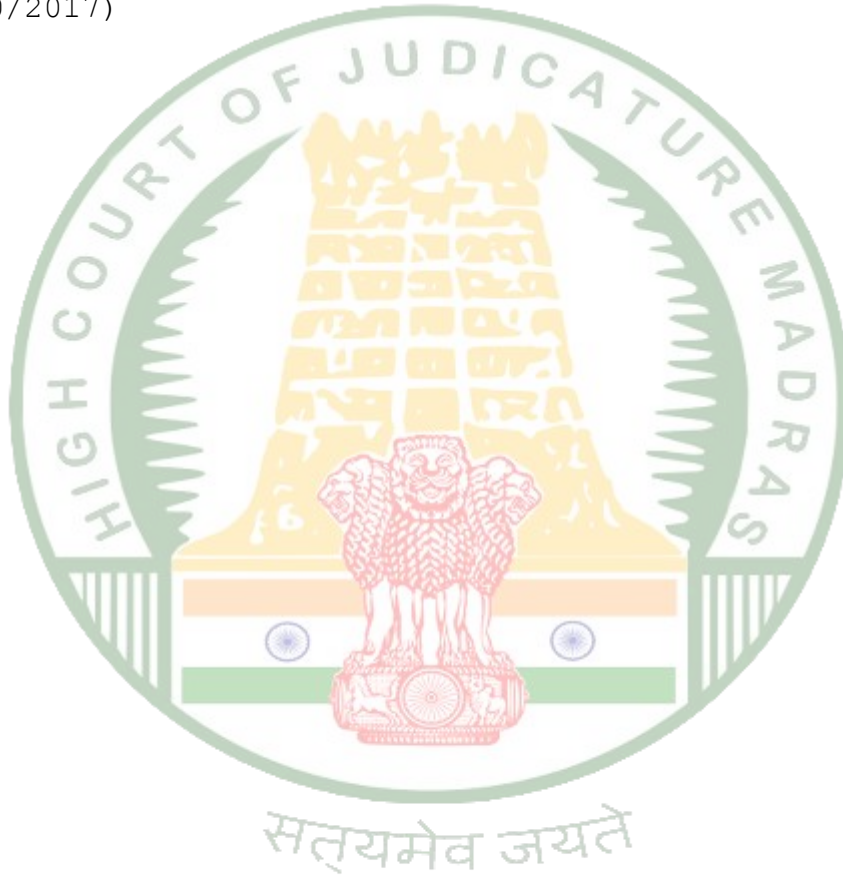
3. The Executive Engineer,
Public Works Department,
Parambikulam Division,
Parambikulam, Pollachi via.

+1 C.C. to M/S.T.M.NAVEEN, Advocate SR.NO. 68507

+1 C.C. to Government Pleader Advocate SR.NO. 69413

W.P.No.10426 of 2004

T.R (11/10/2017)



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