

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No. 37495 of 2016
and
W.M.P No. 32118 of 2016

A. Ponnusamy .. Petitioner

vs.

1. The District Forest Officer
Tiruppur Forest Division
cum Deputy Director
Anaimalai Tiger Reserve
District Forest Office
Udumalpet.
2. The District Collector
Tiruppur District.
3. The Assistant Director of
Horticulture, Avinashi.
4. The Assistant Director of
Horticulture, Karuvalur. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 1st respondent to pay the balance compensation of Rs.41,000/- as per the loss certificate issued by the 3rd & 4th respondents with 18% interest from 26.03.2015 till the date of payment and pass further orders.

For Petitioner : Mr. A.P. Srinivas

For Respondents : Mr. N. Inbanathan,
Govt. Advocate (Forest) for R1

Mr. P. Senthilvel,
Govt. Advocate for R2 & R3

ORDER

This writ petition has been filed seeking to direct the 1st respondent to pay the balance compensation of Rs.41,000/- as per the loss certificate issued by the 3rd & 4th respondents with 18% interest from 26.03.2015 till the date of payment

2. The learned counsel for the petitioner submitted that the petitioner is an agriculturist, cultivating banana trees, vegetables, corn, poultry, animal feeds and coconut in his land. It is stated that very often deers and peacocks enter his lands and damage the crops. Hence, complaints were submitted by the villagers to the Forest Department and conducted various protests, in this regard. The petitioner approached the 2nd respondent/ District Collector, submitted a representation, requesting to pay compensation for the loss of crops in his land. The said representation was forwarded to the 1st respondent. The 1st respondent directed the petitioner to obtain a certificate from the Revenue Department to the effect that he has not received any compensation. Again, he was directed to get a certificate from Horticulture Department. After the field inspection, the Horticulture Department recommended to pay Rs.100/- per banana tree and for a total of 500 trees, a sum of Rs.50,000/- for the damages caused to the banana trees and Rs.1000/- for corn crops. The 1st respondent, without considering the aforesaid report, has given a compensation of Rs.10,000/- to the petitioner. Hence, the petitioner sent a representation on 04.05.2015 to the 2nd respondent, to drive out the deers and peacocks from his land and till then to pay a sum of Rs.1,00,000/- every year for his loss of crops. The said representation forwarded to the 1st respondent. Vide his letter Na.Ka. No.2777/2015/VaU dated 29.05.2015, the 1st respondent rejected the request of the petitioner stating that on 26.03.2015 the respondents have paid a compensation of Rs.10,000/- to the petitioner. Aggrieved by the said impugned order, the petitioner has filed the present writ petition.

3. The 1st respondent has filed his counter affidavit. On the basis of the counter affidavit, the learned Government Advocate would submit that on receipt of the application from the District Collector, Tiruppur, the 1st respondent verified the field inspection Certificates from the Agriculture, Horticulture and Revenue and necessary certificates were obtained from them, regarding the compensation granted to the petitioner. According to the respondents, the compensation amount will not be paid based on the reports of Agriculture and Horticulture Departments. The same will be assessed, only based on the Government orders and on personal inspection by the forest

officials. As per G.O.Ms.No.98 Environment & Forest Department dated 17.08.2011, the maximum limit for payment of crop damage compensation is Rs.25,000/- per acre, or as per actual, whichever is less. As per the aforesaid G.O., for damages of coconut trees, the maximum limit is Rs.500/- per tree and this limitation is followed by the Forest Department. Hence, the request of the petitioner, in the present writ petition for payment of Rs.1,00,000/- till the peacocks and deers are driven out of the land, cannot not be granted. The department has to follow the orders passed by the Government for grant of compensation to the affected farmers. In the present case, the actual loss to the crop, on the basis of the assessment made by the District Forest Officer, is Rs.10,000/- and the said amount has been paid to the petitioner. Therefore, the respondents cannot pay the compensation as sought by the petitioner in the present writ petition. Hence, the writ petition is liable to be dismissed.

4. Heard learned counsel for the petitioner and the learned Government Advocates for the respondents and perused the material available on record.

5. The petitioner being an agriculturist, was cultivating banana trees, vegetables, corn, poultry, animal feeds and coconut in his land. The deers and peacocks enter into the petitioner's fields and damages the crops, resulted in huge loss and the petitioner is unable to survive for his livelihood, without income. The petitioner submitted a representation to that effect, to the 2nd respondent and the same was forwarded to the 1st respondent. As directed by the 1st respondent, the relevant certificates were obtained from the Horticulture, Agriculture and Revenue Departments, and the same were submitted by the petitioner. The 1st respondent, by order dated 29.05.2015 informed the petitioner that he is entitled only for a sum of Rs.10,000/-, which has already been paid and that the petitioner is not eligible for any excess amount as requested in the representation. Further, the 1st respondent had stated that on the basis of the field inspection made by the District Forest Officer, who is the competent authority to calculate the loss to the crops, based on the Government order prevailing at that point of time, the said amount of Rs.10,000/- has been fixed and it has been paid to the petitioner.

6. In Paragraph -8 of the G.O.Ms. No.98 Environment and Forests Department dated 17.08.2011, it is ordered as follows :-

'8. The Government after careful consideration, have decided to enhance the norms as detailed below :-

1	Human death or Permanent incapacitation	Rs.3,00,000
2	Major injury	Rs. 30,000
3	Crop Damage	Rs.25,000 per acre or as per actual whichever is less. Coconut tree Rs.500/- per tree
4	Damage to Tiled/ RCC House/ Thatched House	Fully damaged house Pucca house Rs.35,000/- per house Kucha house Rs.10,000/-per house Severely damaged house Pucca house Rs.5,000/- per house Kucha house Rs.2,500/- per house Partially damaged house Rs.1500/- per house
5	Damage to vehicle, loss of cattle or live stock	Milch cattle Rs.10,000/- Bullock Rs.10,000/- Goat Rs.2000/- Sheep Rs.1500/- Poultry Rs.100/- per bird Pig Rs.1000/-nor actual value whichever is less
6	Cloth / House hold articles other house hold	Actual loss or Rs.2000/- whichever is less
7	Damage to shop	Rs.4000/-
8	Damage to irrigation or drinking water wells, electric motor	Rs. 2000/-
9	Vehicle compensation	Rs. 2000/-

In Sl.No.3 of paragraph 8, it is stated that for loss of Crop damage - Rs.25,000/- per acre or as per actual, whichever is less, is entitled to the agriculturists. In so far as the coconut trees are concerned, the respondents shall pay a compensation @ Rs.500/- per tree.

7. So far as the present case is concerned, the respondents have received a certificate from the Horticulture department, assessing for the crop loss namely, for 800 banana trees @ Rs.100/- per tree, totalling Rs.80,000/-. Thereafter, field inspection report has been submitted by the Agriculture Department. The 1st respondent has not stated the reasons for rejecting the report submitted by the Horticulture and Agriculture Department, which was an estimation of the crop loss, based on the market value, during their inspection. If the 1st respondent is not satisfied with the report, the reason should have been specified for non-consideration of the said report. I do not understand how the 1st respondent has come to such a conclusion that the actual loss of the crop is Rs.10,000/- and no material has been produced before this Court to that effect. The Government have passed an order in G.O.Ms. No. 98 dated 17.08.2011 stating that the compensation has been enhanced to Rs.25,000/- per acre or as per actual, whichever is less. In the absence of the said reasons, this Court is not inclined to accept the contention of the 1st respondent, that the District Forest Officer is well versed to assess the loss of crops, to pay compensation to the Agriculturists. The relief prayed for, by the petitioner, to direct the 1st respondent to pay the balance compensation of Rs.70,000/- as per the loss certificate issued by the 3rd respondent, needs consideration. However, the contention of the learned counsel for the petitioner, seeking to pay a sum of Rs.1,00,000/- every year, as compensation for the loss of crops till the deers and peacocks are driven out of his lands, cannot be accepted and the same is rejected. The relief for payment of compensation can be considered by this Court, only based on the orders issued by the Government in the aforesaid G.O. The payment of compensation must be reasonable to the Agriculturists, who have suffered the damages caused by the animals and birds. The loss caused to the petitioner cannot be compensated by a meagre amount of Rs.10,000/-, in the light of the report issued by the Horticulture Department and other departments. Hence, the contention of the 1st respondent that the loss of crops has been compensated by paying Rs.10,000/- is unreasonable and the same is not accepted. By considering the facts of the case, the petitioner is entitled for compensation for the loss sustained due to the damages caused by animal and birds, on the basis of the Government order.

8. In view of the above, this Court is inclined to pass the following orders.

- i. The 1st respondent is directed to pay the compensation of Rs.25,000/- per acre, as per the government order in G.O. Ms. No.98 dated 17.08.2011, to the petitioner, within a period of twelve weeks from the date of receipt of a copy of this order.

ii.The 1st respondent shall deduct the sum of Rs.10,000/-, that has already been paid, by way of demand draft.

9. Accordingly, the Writ Petition is partly allowed. Consequently, the connected M.Ps are closed. No costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

avr

To

1. The District Forest Officer
Tiruppur Forest Division cum
Deputy Director Anaimalai
Tiger Reserve
District Forest Office
Udumalpet.
2. The District Collector
Tiruppur District.
3. The Assistant Director of
Horticulture, Avinashi.
4. The Assistant Director of
Horticulture, Karuvalur.

+1cc to Mr.A.P.Srinivas,Advocate sr.22327

W.P.No. 37495 of 2016
and

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scd(co)
ss(23/6/2017)

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