

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2017

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

WRIT PETITION NO.38912 of 2016
& W.MP.No.33329 of 2016 & W.MP.No.33330 of 2016

Dr.K.V.S.Kumar

...Petitioner

Vs.

1. The Principal Secretary
Adi Dravidar and Tribal Welfare Department
Government of Tamilnadu
Fort St.Geroge, Secretariat, Chennai - 600 009.
2. The Director
Adi Dravidar and Tribal Welfare Department
Chepauk, Chennai - 600 005.
3. The District collector,
Collectorate, Tiruvallur District - 602 001.
4. The Commissioner of Land Administration
Ezhilagam, Kamarajar Salai,
Chepauk, Chennai - 600 005.
5. The District Adi Dravidar and Tribal Welfare Officer
Collectorate, Tiruvallur - 602 001.
6. The Special Tahsildar
Department of Adi Dravidar and Tribal Welfare
R.D.O. Office, Ground Floor, Thiruttani.
7. The President, Jagirmangalam Village Panchayat,
Thiruvelangadu Union, Tiruvallur District.

...Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records of the 1st respondent in letter No.1190/LA2(2)/2016-3, dated 23.8.2016 and quash the same and consequentially direct the respondents to pay the compensation to the petitioner with due interest within a stipulated time limit.

For Petitioner : Mr.Natarajan, Senior Counsel
for M/s. A. Madhumathi

For Respondent : Mr.S.Diwakar, Special Government
Pleader (for R1 to R6)
No Appearance for R7

O R D E R

This writ petition has been filed for issuance of writ of Certiorarified Mandamus, calling for the records of the 1st respondent in letter No.1190/LA2(2)/2016-3, dated 23.8.2016 and quash the same and consequentially direct the respondents to pay the compensation to the petitioner with due interest within a stipulated time limit.

2.By the proceedings dated 16.09.2015, the fifth respondent sent a communication to the second respondent seeking allotment of sufficient fund for the sale in favour of the persons belonging to Irular community from the petitioner with specific extents. In the aforesaid proceedings, different extent of lands have been mentioned alongwith the valuation fixed per cent.

3.The proceedings referred above also indicate the factum that the persons belonging to the Irular community are in possession and enjoyment of the lands belonging to the petitioner over the years. As the amount fixed accordingly was not paid, the petitioner filed a writ petition before this Court on the earlier occasion. In pursuant to the direction of this Court in W.P.No.16865 of 2016, the first respondent has rejected the recommendations made on the premise that the amount fixed is very high, the District Level Committee is not competent to fix it and fertile lands can only be acquired in case of unavoidable circumstances. Challenging the same, the present writ petition has been filed.

4.The learned Senior counsel appearing for the petitioner would submit that it is a fact that persons belonging to the Irular Community are in occupation and enjoyment of the petitioner's land. Therefore, the reason assigned with respect to the nature of the cannot be sustained. It was also accepted by the respondents 5 and 6 and as well as the District Level Committee, both with respect to the suitability of the land and as well as the rate liable to be paid. Hence the order impugned is liable to be interfered with.

5.The learned Special Government Pleader appearing for the respondents 1 to 6 based upon the counter affidavit filed would submit that as per the Government order passed in G.O.Ms.No.103, Revenue Department, dated 28.02.2011, the

competent authority to fix the land value which exceeds Rs.1 Crore is a State Level Negotiation Committee and not the District Level Committee. Out of 30 families living in Survey No. 39/1F, Pattas have already been given to 22 people in the year 2011 itself. The petitioner does not have vested life to seek the relief. Hence no interfere required.

6.A perusal of the proceedings which are four in number of the fifth respondent would clearly show that persons belonging to the Irular Community are in possession and enjoyments of the lands belonging to the petitioner. In fact, the four proceedings refer to four different extents. These lands are situated in Survey Nos.39/1G and 39/1H. If the contention of the respondents is that no land is required, it is not known as to why the negotiation took place between the petitioner and the respondents 5 and 6 and as well as the District Level Committee which fixed the valuation. Therefore, the aforesaid proceedings would clearly indicate two factors. The first is with respect to the possession of Irular Community people in the land of the petitioner and the second is with respect to the said decision to give the lands to them having been taken after the patta was given to 22 families in the year 2011. Incidentally, the said decision also would nullify the reason assigned in the impugned order and the necessity to acquire a fertile land. In fact, the land has already been used by the members of the Irular Community.

7.Therefore, the contention raised on the ground of necessity and the nature of land cannot be sustained. Resultantly, the only other issue to be considered is with respect to the fixation of the value. As rightly submitted by the learned Special Government Pleader, this is the matter to be considered by the State Level Committee. It is to be noted that this is not as if the wet land can never be acquired at all. The facts of the case would show that the proposal to acquire the lands of the petitioner, though classified as wet land, appears to be in order.

8.In such view of the matter, the order impugned is hereby set aside and consequently, the first respondent is directed to send the proceedings of the fifth respondent dated 16.09.2015 and the representation of the petitioner dated 29.03.2016 to the State Level Private Negotiation Committee for the purpose of fixing the value. While doing so, it is well open to the first respondent or the State Level Private Negotiation Committee to consider the exact extent of the land that will be required based upon the factual position as there appears to be some dispute over it with respect to the number of persons who are in need belonging to the Irular Community. The above said exercise will have to be done within a period of eight weeks from the date of receipt of a copy of this order.

9.In the result, the writ petition is allowed. No costs.
Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

av/cse

To

1. The Principal Secretary
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7. The President, Jagirmangalam Village Panchayat,
Thiruvelangadu Union, Tiruvallur District.

+2cc to M/s.A.Madhumathi, Advocate in Sr.No.39315
+1cc to Government Pleader in Sr.No.39572

W.P.No.38912 of 2016
& W.M.P.Nos.33329 & 33330 of 2016

SJ(CO)
NR(09/06/2017)