



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.06.2017

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE S.S.SUNDARW.P. (MD).No.10381 of 2017andW.M.P. (MD) No.7954 of 2017

S.Kaniraj

... Petitioner

Vs.

- 1.The Secretary to Government of Tamil Nadu,
Adidhravidar and Tribal Welfare Department,
Fort St. George, Chennai-600 009.
- 2.The District Collector,
Tirunelveli District.
- 3.The District Revenue officer,
O/o. The District Revenue officer,
Tirunelveli District.
- 4.The District Adidhravidar and Tribal Welfare officer,
O/o. The District Adidhravidar and Tribal Welfare office
Tirunelveli District.
- 5.The Special Tashildar,
Adidhravidar and Tribal Welfare Department,
Sankarankovil Taluk.

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent to re-convey the Punjai land in Survey No. 51/3 total an extent of Hectare 0.36.0 (91 cents) in Echampottal Puthur Village, Sivagiri Taluk (Kadayanallur Taluk), Tirunelveli District by considering the petitioner's representation dated 28.02.2017, within the time frame that may be fixed by this Court.

For Petitioner
For Respondents

: Mr.V.Muthuvelan
: Mr.A.Muthukaruppan
Additional Government Pleader

O R D E R

The writ petition has been filed for issuing a Writ of Mandamus, directing the the 2nd respondent to re-convey the Punjai land in Survey No. 51/3 measuring an extent of 0.36.0 Hectares (91 cents) in Echampottal Puthur Village, Sivagiri Taluk (Kadayanallur Taluk), Tirunelveli District by considering the petitioner's representation dated 28.02.2017, within the time frame that may be fixed by this Court.

2. The learned counsel for the petitioner states that the petitioner was the owner of the punjai land in Survey No. 51/3 with an extent of 0.36.0 Hectares (91 cents) in Echampottal Puthur Village, Sivagiri Taluk (Kadayanallur Taluk), Tirunelveli District. The petitioner also admits that the land was acquired earlier by the State under Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 for the purpose of issuing free house site patta to Aadhi dhraavidars. The Acquisition was completed by issuance of notification under Section 4(1) of the said Act even in the year 1996. However the petitioner submits that he did not receive the compensation awarded pursuant to the acquisition and that he is continuously in possession of the land, which was acquired in 1996.

3. The case of the petitioner is that the petitioner is entitled to get the land. It is submitted that the lands were not utilized for the purpose for which it was acquired. The next submission of the learned counsel for the petitioner is on the basis of Section 24(2) of Right to Fair Compensation and transparency in Land acquisition Rehabilitation and Resettlement Act 2013. It is further submitted that the petitioner is entitled to get also re-conveyance under Section 48(B) of Land Acquisition of Central Act, 1894. None of the submissions of the learned counsel for the petitioner can be legally sustained. When the acquisition of the land is under Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978, the land vest with Government free from all encumbrances with effect from the date of notification under Section 4(1). Section 24(2) of Right to Fair Compensation and transparency in Land acquisition Rehabilitation and Resettlement Act 2013 reads as follows:

"(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition At, 1894 (1 of 1894), where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provision of this Act:



Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act."

4. Section 24 of the 2013 Act is applicable only where the acquisition of land was initiated under the Land Acquisition Act, 1894. Hence, the petitioner cannot seek any relief on the basis of Section 24(2) of the Right to Fair Compensation and transparency in Land acquisition Rehabilitation and Resettlement Act 2013. Section 48 of the Land Acquisition Act, 1894 is also inapplicable in view of the fact that the acquisition in the present case was under the State Act namely, Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978. The acquisition in the present case was in 1996 and the petitioner seeks reconveyance based on his representation, dated 28.02.2017, which is unsustainable law.

5. If the petitioner is continuing in possession, it is illegal and objectionable. The respondents may take appropriate action in accordance with law. They can initiate action either for removal of encroachment or for the assessment of penal charges for such wrongful enjoyment. The contention of the petitioner is that he was not paid any compensation. However the learned counsel appearing for the respondent submitted that the compensation awarded for the land is in revenue deposit. Hence liberty is given to the petitioner to approach appropriate authority for getting the compensation fixed for the land acquired or to file an appeal in accordance with law to get just compensation, in case the compensation awarded to the petitioner was not adequate compared to the market value as on the date of 4(1) notification and if such appeal is maintainable in law after this length of time.

6. However, this writ petition cannot be entertained for any relief. Hence, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is dismissed.

Sd/-

Assistant Registrar (Writs)

/True Copy/

Sub-Assistant Registrar

To

1. The Secretary to Government of Tamil Nadu,
Additional Secretary and Tribal Welfare Department,
Fort St. George, Chennai-600 009.



2.The District Collector,
Tirunelveli District.

3.The District Revenue officer,
O/o. The District Revenue officer,
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5.The Special Tashildar,
Adidhravidar and Tribal Welfare Department,
Sankarankovil Taluk.

+One cc to Mr.V.Muthuvelan, Advocate, SR.No.58656

+One cc to The Special Government Pleader, SR.No.58552

SM/SMI

RL/8C/4P/KKR/SAR4/28/6/2017

W.P. (MD) .No.10381 of 2015
and
W.M.P. (MD) No.7954 of 2017
05/06/2017