



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Monday, the Twenty Ninth day of April Two Thousand Nineteen

PRESENT

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The Hon`ble Mr.Justice N.SESHASAYEE

WP(MD) Nos.3698 & 5397 of 2017

VALLIYAMMAL ... PETITIONER IN WP(MD) . 3698/ 2017

T.NAVANEETHAKRISHNAN ... PETITIONER IN WP(MD) . 5397/ 2017

- Vs. -

1 THE CHAIRMAN CUM MANAGING DIRECTOR,
TAMIL NADU ELECTRICITY BOARD,
ANNA SALAI, CHENNAI-600 002.

2 SUPERINTENDING ENGINEER/CIVIL
HYDRO PROJECTS/ TANGEDCO,
955, E.V.N.ROAD, T.N.E.B COMPLEX,
ERODE-638 009.

3 THE DISTRICT COLLECTOR,
COIMBATORE DISTRICT,
COIMBATORE.

(*) 4 THE UNION OF INDIA,
MINISTRY OF FINANCE,
NEW DELHI.

(*)R4 SUO MOTU IMPEADED VIDE ORDER DATED
05.03.2019, MADE IN WP(MD) No.3698/17

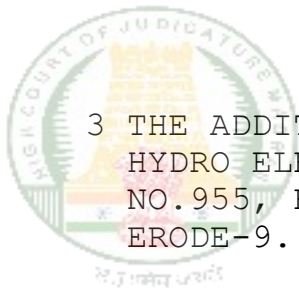
(**) 5 THE CHIEF SECRETARY,
GOVERNMENT OF TAMILNADU,
FORT ST.GEORGE, CHENNAI.

... RESPONDENTS
IN WP(MD) . 3698/ 2017

(**)R5 SUO MOTU IMPEADED VIDE ORDER DATED:29.04.2019
MADE IN WP(MD)NO.3698 & 5397 OF 2019

1 THE DISTRICT COLLECTOR,
COIMBATORE DISTRICT,
COIMBATORE.

2 THE CHARIMAN,
TAMIL NADU ELECTRICITY BOARD,
ANNA SALAI, CHENNAI-600 002.



3 THE ADDITIONAL CHIEF ENGINEER/CIVIL
HYDRO ELECTRIC SCHEME,
NO.955, E.V.N.ROAD,
ERODE-9.

(*) 4 THE UNION OF INDIA,
MINISTRY OF FINANCE,
NEW DELHI.

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(**) 5 THE CHIEF SECRETARY,
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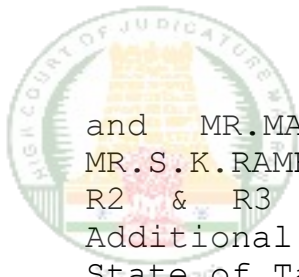
Prayer in WP(MD). 3698/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ, order or direction in the nature of writ of Mandamus directing the respondents 1 & 2 to pay the compensation at Rs.750 per sq feet to the petitioner as fixed by the 3rd respondent in its proceedings in Ref.No.27472/2012 F1 dated 30.10.2015 for the land belongs to the petitioner to an extent of 0.6250 Sq Mtr in Patta No.716, Town Survey No.C/7/3-1, Chikkadasampalayam Village, Mettupalayam Taluk, Coimbatore District.

Prayer in WP(MD). 5397/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ, order or direction in the nature of WRIT OF MANDAMUS directing the 1st respondent to determine the Compensation as per Section 93(2) of "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" for the damages caused to the petitioner's land measuring an extent of 0.51 Hec. (i.e. 1.07 Acres) out of the total extent of 5.45 acres, comprised in Old Survey Nos.469/2 and 471, now in combined new Survey No.4/1, situated at Chikkadasampalayam Village, Mettupalayam Town, Coimbatore District, due to Bhavani Barrage-II Hydro Electric Power Project (2*5 MW) of the respondents 2 and 3, in accordance with law and consequently direct the respondents 2 and 3 to pay the compensation as fixed by the respondent No.1.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.G.KRISHNAKUMAR, Advocate for the petitioner in WP(MD) No.3698 of 2017 and MR.R.GOPINATH, Advocate for the petitioner in WP(MD) No.5397 of 2017 and of MR.ARVIND PANDIYAN, Additional Advocate General Assisted by MR.S.K.RAMESHWAR, Advocate for R3 in WP(MD) No.3698 of 2017 and R1 in WP(MD) No.5397 of 2017



and MR.MANISHANKAR, Additional Advocate General Assisted by MR.S.K.RAMESHWAR, Advocate for R1 & R2 in WP(MD) No.3698 of 2017 and R2 & R3 in WP(MD) No.5397 of 2017 and MR.V.ANANDA MOORTHY, Additional Government Pleader takes notice for the Chief Secretary, State of Tamil Nadu, the court made the following order:-

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This case has a chequered history and agony of the petitioners are spread over close to 44 years. The point of the matter is that the petitioners' properties have been occupied by the then TNEB forcibly without recourse to Land Acquisition Act, 1894, and converted the properties into the reservoir. Eversince, they have been negotiating with the Government and on various point of time, the Government has come forward with different proposal for purchasing the property for a status consideration. Ultimately, the parties have arrived at certain consensus and when the whole thing is about to be documentary, the petitioners brought to the notice of this Court that they have been granted the benefit of Section 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, (Central Act 30 of 2013) of 2013. Section 96 of the Central Act 30 of 2013 in essence granted exemption from payment of TDS in cases of compensation paid on any land acquired under Section 96 of the Central Act 30 of 2013 Act. Therefore, it becomes necessary to ascertain if Section 96 of the Central Act 30 of 2013 could be extended to cases such as the petitioners'. This Court also impleaded the Union of India, Ministry of Finance, New Delhi as an additional respondent and the Income Tax department who ought to assist this Court is now represented by Mrs.Hema Muralikrishnan, the learned Standing counsel. The learned standing counsel for the Income Tax Department submitted that TDS exemption can be granted, only of the acquisition is under Section 96 of the Central Act 30 of 2013.

2.Today, when the matter came up for hearing before this Court, the learned Additional Advocate General himself now brought to the notice of this Court the notification issued by the Highways Department in G.O.M.S.No.291 dated 04.12.2018, whereunder, the exemption provided under Section 96 of the Central Act 30 of 2013 is specifically included as a part of the notification. This Court wonders why that cannot be extended to acquisition made by every other Departments of the Government. This Court also required the Additional Advocate General to consider it and ascertain the fact that if the petitioners would be entitled to the benefit of Section 96 of the Central Act 30 of 2013 and how the Government proposes to secure the benefit in terms of Section 96 of the Central Act 30 of 2013. This Court is convinced that if the benefit under Section 96 of the Act should be given, then it must be preceeded atleast by a notification under Section 11 of the Central Act 30 of 2013.

3.This Court therefore, *suo motu* impleads the State Government represented by the Chief Secretary as the fifth respondent in both the writ petitions.



4.This Court directs the State Government to issue necessary notification for acquiring the petitioners' land in both the cases under Section 11 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, within a period of four weeks from today.

5.Mr.V.Ananda Moorthy, learned Additional Government Pleader takes notice for the Chief Secretary, State of Tamil Nadu.

6.Issue notice to the respondents returnable by 11.06.2019.

sd/-
29/04/2019

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE CHAIRMAN CUM MANAGING DIRECTOR,
TAMIL NADU ELECTRICITY BOARD,
ANNA SALAI, CHENNAI-600 002.
- 2 THE SUPERINTENDING ENGINEER/CIVIL
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- 7 THE CHIEF SECRETARY,
GOVERNMENT OF TAMILNADU,
FORT ST.GEORGE, CHENNAI.

ORDER
IN
WP (MD) Nos.3698 & 5397 of 2017
Date :29/04/2019

JM/PN/SAR 2/30.04.2019/4P/8C