

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2018

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.7246 of 2017

Kandayee

... Petitioner

-Vs-

- 1.The Principal Secretary to Government
Energy Department
Government of Tamil Nadu
Fort St.George, Chennai - 600 009.
 - 2.The Chairman
Tamil Nadu Electricity Board/TANGEDCO
No.800, Anna Salai, Chennai - 600 002.
 - 3.The Chief Engineer (Personal)
Tamil Nadu Electricity Board/TANGEDCO
No.800, Anna Salai, Chennai - 600 002.
 - 4.The Superintending Engineer/Civil
Mettur Thermal Power Project
Mettur, Mettur Dam - 636 406
Salem District.
 - 5.The Revenue Divisional Officer
Mettur Revenue Division
Mettur Dam, Salem District.
- ... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to provide alternative house-site, compensation of Rs.6,750/- and other claims to petitioner as per the rehabilitation scheme formulated by the second respondent dated 24.08.2002 for the land/house site acquired for the purpose of Upper Ash Dyke Area of Mettur Thermal Power Project, Mettur Dam, Salem District based on the letter of the fourth respondent dated 09.10.2009.

For Petitioner : Mr.M.R.Jothimanian

For Respondent : Mr.A.Zakir Hussain [for RR1 & 5]
Government Advocate
Mr.Anand Gopal [for RR2 to RR4]
for M/s.T.S.Gopalan & Co

ORDER

The present writ petition is filed by the petitioner for issuing a Writ of Mandamus seeking to direct the respondents 4 and 5 to provide her with an alternate site as the part of the rehabilitation promised under the scheme of land acquisition.

2.1. In the affidavit filed in support of the petition, the petitioner has averred that she owned a land and house site in Survey No.434/19 and 537/3 in P.N.Patti Village, Mettur Taluk, Salem District and the same was acquired for the purposes of Mettur Thermal Power Project. The scheme formulated for the purpose of said acquisition inter alia provided for allotting alternate house sites to the displaced owners of houses which were acquired for the purposes. The Tamil Nadu Electricity Board that was then in existence has formulated the rehabilitation scheme Vide its proceedings dated 24.08.2002. Owing to the project, some 358 owners of the residential buildings were displaced and to provide them with alternate house sites, lands were acquired in Survey No.182-2C of P.N.Patti Village, Mettur Taluk, Salem District and that the owners of these lands challenged the same unsuccessfully in W.P.No.21237 of 2004.

2.2. Thereafter, when the petitioner approached the authorities for providing her with a house site, the fourth respondent Vide his communication dated 09.10.2009 has conceded to the petitioner of her entitlement to obtain the house site as per the rehabilitation programme envisaged in the scheme of acquisition, that her name has been recommended by the Special Tahsildar (Land Acquisition) too, and her name would be considered in the next lot. It is also communicated that the house sites are being allotted by lots. Thereafter, the fourth respondent issued a notice dated 11.03.2010, informing the petitioner of allotment of house sites by lots that was scheduled to take place on 30.5.2008, 25.06.2008 and 05.06.2008 and required the petitioner to provide some documents. This too, according to the petitioner was complied with. This apart, notwithstanding the fact that petitioner lost two of her properties in S.F Nos. 434/19 and 537/3 in P.N.Patti Village, she limited her claim of rehabilitation to allotment of only one house site, to which purpose she also gave a declaration on 26.05.2015.

2.3. The only grievance of the petitioner is that she has not yet been allotted any house site so far, and remain displaced since 2002 since the acquisition was made by invoking the emergency powers under Section 17 of the Land Acquisition Act, 1894.

3. Heard Mr.M.R.Jothimanian, learned counsel for the petitioner, and Mr.A.Zakir Hussain, learned Government Advocate who enters appearance for respondents 1 and 5 and Mr.Ananda Gopalan, learned counsel who is on record for the respondents 2 to 4.

4. The only prayer with which the petitioner has come forward with this petition is to enforce the right accrued to her under the rehabilitation scheme promised when her lands were acquired. And she is waiting for close to 16 years now, about 25% of a normal human life span. Why it is being delayed almost infinitely is unknown especially when the respondents have already acquired the lands in Survey No. No.182-2C of P.N.Patti Village, Mettur Taluk, Salem District for providing alternate house sites for the displaced owners of the houses in the land acquisition. Even if the house sites were allotted based on lots too, holding on to the process indefinitely would impair the quality of the life that the displaced citizens were entitled to under the Constitution. This, therefore, is not a petition appealing to the conscience of this Court primarily, but is an appeal against the insensitivity of the respondents in appreciating the woes of a displaced citizen from the safety of her abode. The point is: 'You made a promise long ago, better perform it.'

5. This Court therefore directs the petitioner to make a fresh representation along with necessary materials to the authorities concerned within two weeks from the date of receipt of a copy of this order, whereupon, the fourth and fifth respondents will take a decision on the same within eight weeks thereafter, consistent with the communication of the fourth respondent in Se.Po/Po.Me.Aa.Me.Thee/Ko.Alternate site/Aa No.476/09 dated 09-10-2009.

6. With the above direction, this petition is allowed. No costs.

Sd/-

सत्यमेव जयते
Assistant Registrar (CS VI)

//True copy//

Sub Assistant Registrar

ds

To:

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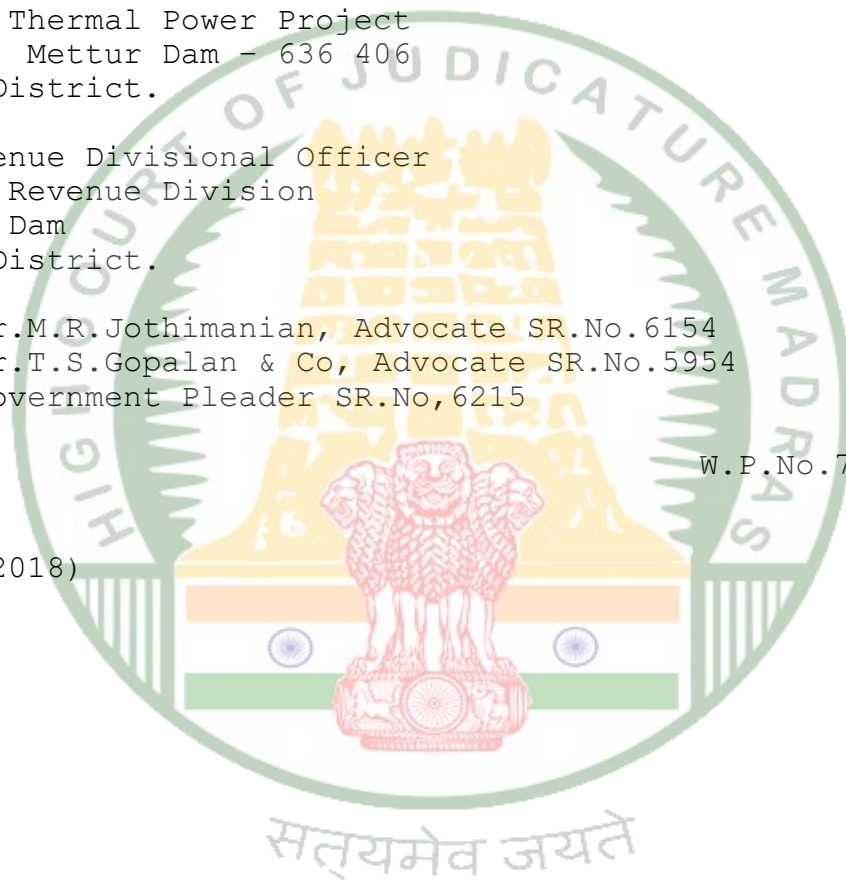
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5.The Revenue Divisional Officer
Mettur Revenue Division
Mettur Dam
Salem District.

+1cc to Mr.M.R.Jothimanian, Advocate SR.No.6154
+1cc to Mr.T.S.Gopalan & Co, Advocate SR.No.5954
+1cc to Government Pleader SR.No,6215

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GJ(CO)
GN(13/02/2018)



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