

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2018

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.3147 of 2015

1.P.Rajagopal  
2.Muthaiya @ Muthaiyapandian ... Petitioners

-Vs-

The Special Thasildhar (LA) Unit II  
Kannankottai Thervoykandigai  
Reservoir Scheme  
Gummidipoondi Taluk  
@ 31, Deenadayalan Nagar  
Kavarapettai - 601 206. ... Respondent

Prayer :- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to Award No.6/2014 dated 05.03.2014 and quash the same so far as the petitioners land namely land for an extent of 40 acres 51 cents on 16.40.0 hectares comprised in Survey No.142/1A situated at No.26, Kannankottai Village, Gummidipoondi Taluk, Tiruvallur District and consequently directing the respondent to pass award in favour of the petitioners for the said land. [Prayer amended as per order dated 06.04.2016 in WMP.No.10258 of 2016 in WP.No.3147 of 2015]

For Petitioners : Mr.A.Selvanambi  
for Mr.V.Meenakshisundaram

For Respondent : Mr.Akhil Akbar Ali  
Government Advocate

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ORDER

The facts averred in the affidavit filed in support of this petition may be briefly stated : An extent of 16.40.0 hectares (40.51 acres) comprised in Survey No.142/1A of Kannankottai Village, Gummidipoondi Taluk, Thiruvallur District originally belonged to a certain Zakariaya, who on 29.01.2007 sold the same to one K.V.Suresh and another C.Rajesh under sale deed registered as document No.581/2007 of Gummidipoondi SRO. The

said predecessors of the land also effected mutation of their names in the revenue records. Subsequently, the petitioners have purchased this piece of land from K.V.Suresh and C.Rajesh on 12.05.2009 under a sale deed registered as document No.1456/2009. Be that as it may, the petitioners came to know that the Government has issued G.O.(Ms) No.16 Public Works K1 Department dated 24.01.2012, in furtherance of notification under Section 4(1) of the Land Acquisition Act, 1894, disclosing its proposal to acquire the lands by invoking Section 17(4) of the Act for formation of a reservoir at Kannakottai and Thervoykandigai villages. This was published on 26.08.2013, whereinafter, the petitioners approached the respondent to issue them a notice under Section 9(3) of the Act which the Land Acquisition Act, 1894 mandates for enquiring those who are interested in the lands acquired before passing the award. Since the said notice in Form VII under Section 9(3) of the Act was not so issued to the petitioners and the award of compensation has been awarded to the petitioner's vendors viz. K.V.Suresh and C.Rajesh. Hence the petitioners have come forward with this writ petition for issuing a Writ of Certiorarified Mandamus to quash the award dated 05.03.2014 passed in favour of the petitioners' vendors and also to direct the respondents to pass an award in their favour.

2. Mr.Akhil Akbar Ali, learned Government Advocate entered appearance for the respondent. Mrs.P.Chitra, Special Tahsildar (LA) Unit-II, Kannankottai-Thervoykandigai Reservoir Scheme, Kavarapet, Gummidipoondi Taluk, Tiruvallur District is present today to assist the Court.

3. The respondent has filed counter affidavit as well as additional affidavit, wherein the land acquisition authority puts forth the following contentions :

- As on the date of issuance of notification under Section 4 (1) of the Act, the petitioners have not mutated their names in the revenue records, owing to which the authority has issued the notice on the vendors of the petitioners. This is consistent with the authority in R.Kanthasamy Gounder & Others Vs. State of Tamil Nadu, Rep. by its Secretary, Housing and Urban Development [(2008) 8 MLJ 1037].
- The petitioners have mutated their names in the revenue records only on 21.07.2015, whereas the respondent has passed the award even on 05.03.2014. However, it is clarified that the award passed was only an interim award.
- A group of people under the banner Kannankottai Dr.Ambethkar Narpani Mandram has preferred a complaint that

the compensation should not be paid to the land owners and that the lands are government poramboke lands on the basis of the judgment dated 30.11.1972 in CMA.Nos.41, 43 of 1970 and CMA.No.2 of 1971, and hence the amount payable as per the interim award dated 05.03.2014 Vide Award No.6/2014, has been deposited in court deposit in Sub Court, Ponneri on 16.06.2014.

4. Primarily the compensation is payable to the owner or the person interested in the lands acquired. It may be seen even in the interim award that the respondent has indicated that the encumbrance certificate pertaining to the property was perused. In the typed set of papers filed by the petitioners, a copy of the encumbrance certificate is enclosed. This encumbrance certificate discloses the sale deed obtained by the petitioners even in 2009. Apparently, the respondent has appeared to have missed a point here in that a little vigilance would have enabled the Tahasildar about the said sale deed. Having stated thus, since the final award has not been passed yet, the authority has not become functus officio. It is also made clear that while passing the award, the land acquisition authority should ensure that the materials are made available by the owners/persons interested in the lands and also to evaluate the materials opposing their title. Therefore, it may not be appropriate for the authority to act on the basis of a sweeping allegation sans any material from any association of persons.

5. Inasmuch as the final award has not yet been passed, and since the petitioners have already mutated their names in the revenue records and since the authority concerned has also put on notice about the sale in favour of the petitioners that has already been made in 2009, it is imperative that the State acts fairly to its citizens who has approached the authority.

6. The petitioners are therefore directed to submit a fresh representation with necessary materials within four weeks from the date of receipt of a copy of this order and the respondent is directed to consider the same on merit after affording to the petitioners due and effective opportunity of being heard in the ongoing enquiry process for passing of final award. With the above direction, this writ petition is disposed of. No costs.

Sd/-  
Assistant Registrar(CS IV)

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Sub Assistant Registrar

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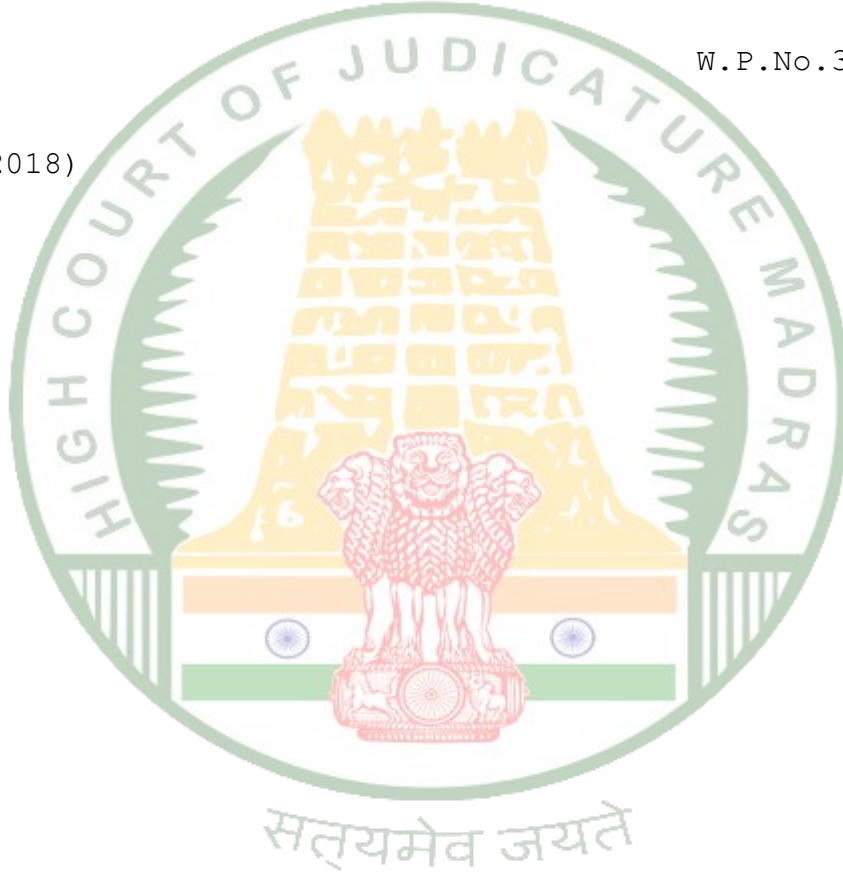
To:

The Special Thasildhar (LA) Unit II  
Kannankottai Thervoykandigai  
Reservoir Scheme  
Gummidipoondi Taluk  
@ 31, Deenadayalan Nagar  
Kavarapettai - 601 206.

+lcc to Mr.V.Meenakshi Sundaram, Advocate SR.No.474

W.P.No.3147 of 2015

SKV(CO)  
GN(09/01/2018)



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