

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2018

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.21488 of 2016

1.K.Vellamuthu
2.K.Iyyamperumal
3.C.Manikandan
4.R.Perumal
5.P.Alagammal
6.Vembu
7.A.Samboornam
8.A.Ramalingam
9.A.Arumugam
10.N.Sithambalam ... Petitioners

-Vs-

1.The District Collector
Collectorate
Perambalur District.
2.The Commissioner and Secretary
Special Adi Dravida Welfare
Secretariat, Chennai - 600 009.
3.The Special Tahsildar
Sub Collector Office Campus
Perambalur 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 consider our representation dated 20.06.2015 in respect of the reconvey the lands comprising in Survey No.182/1 measuring 3.17.5 hectares situated at Perali Village, Kunnam Taluk, Perambalur District, within the time limit fixed by this Court.

For Petitioners : Mr.L.P.Balaji Ram
For Respondents : Mr.A.Zakir Hussain
Government Advocate

ORDER

The petitioners have come forward with this petition seeking a writ of mandamus directing the respondents to consider their representation dated 20.06.2015 to return their properties acquired by the authority.

2.1. The averments made in the affidavit of the petitioners filed in aid of petition are that the property measuring 3.17.5 hectares in S.F.No.182/1 situated at Perali Village, Kunnam Taluk at Perambalur District belonged to 22 persons of

who the petitioners are some, and that the Government proposed to acquire the same for providing house-sites to Adi Dravidar community. At the time of acquiring the lands, the government fixed the price at Rs.280/- per cent. The petitioners were not satisfied with the amount awarded and hence did not receive the same. Besides, they have no other lands of their own.

2.2. Though the petitioners were issued with notices dated 06.4.1993 under Section 5A of the Land Acquisition Act, 1894 and notice in Form-7 dated 26.2.1994 under Section 9(3) and 10 of the Land Acquisition Act, 1984, to the best of their knowledge no award has yet been passed. While so, sometime in the year 2005, Government acquired about 3000 acres of lands in villages viz.,

Chinnaru, Thirumanthurai, Pennakonam, Ayanperaiyur in Kunnam Taluk, Perambalur District and the value of the lands were fixed at Rs.4,00,000/- per acre. At present, the lands in Perali Village fetches a value of Rs.15,00,000/- per acre. Therefore, the petitioners have sent a representation dated 15.10.2014 to the respondents to re-fix the price of the lands acquired. But, no decision was taken on it. Hence, the petitioners have sent yet another representation dated 20.06.2015, for return of their lands, and again no action was taken on it.

3. In the counter filed by the third respondent and adopted by the other respondents, it is alleged that the entire extent of 3.17.5 hectares of lands in S.F.No.182/1 situated at Perali Village, Kunnam Taluk originally belonged to 22 persons and the same was acquired by the Government for providing house-sites to Adi Dravidars of Perali North Village. After due notification and enquiry under Section 5A of Land Acquisition Act, 1894, a declaration under Section 6 of the Act was made on 29.03.1994. Thereafter, the award was made on 29.03.1994 in favour of all the beneficiaries including the petitioners for a total sum of Rs.2,17,442/-, and that was deposited in two instalments, of which, Rs.1,93,500/- was remitted in Sub-Treasury, Perambalur on 30.3.1994, and the balance of Rs.23,942/- was deposited before the Sub Court, Ariyalur and out of this, the petitioners are entitled to a sum of Rs.11,287/-.

4. Mr.A.Zakir Hussain, learned Government Advocate appearing for the respondents argued that the petitioners have come to the Court with a misconception that no award has been passed, when an award indeed was passed as stated. In the said circumstances, if at all the petitioners had felt aggrieved by the inadequacy of the compensation, they should have sought a reference under Section 18 of the Land Acquisition Act, 1894, within appropriate time. However, without resorting to a remedy open to the petitioners under Section 18 of the Land Acquisition Act, 1894, they have approached the Court after

about 22 years and are attempting to gain an advantage by carefully concealing their default. The learned Government Advocate also stated that the possession has also been taken.

5. The learned counsel for the petitioners argued that for the adjacent properties, State has paid as much as Rs.4,00,000/- in the year 2005 and the petitioners have been discriminated against.

6. The very foundation on which the petitioners have rested the cause for the current action appears dubious. The acquisition in the petitioners' case has taken place in the year 1992 and an award was passed sometime in the year 1994, and the petitioners now compare the value of their property as fixed in 1994 with those awarded in the case of acquisitions made by the respondents in the year 2005. Secondly, the petitioners appear to be attempting to achieve something indirectly, after forfeiting their right to invoke Sec.18 of the Act some 22 years ago. Therefore, the petitioners' primary prayer for refixing of the compensation, made to the authorities, simply cannot be entertained and on failure to do it to return the property acquired cannot be ordered. Having stated thus, if the petitioners however are entitled to have their lands returned otherwise than in the manner now attempted, they may work it out separately but subject to law applicable. This petition is dismissed subject to the observations made. No costs.

ds

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To:

- 1.The District Collector
Collectorate
Perambalur District.
- 2.The Commissioner and Secretary
Special Adi Dravida Welfare
Secretariat, Chennai - 600 009.
- 3.The Special Tahsildar
Sub Collector Office Campus
Perambalur District.

+1cc to Mr.L.P.Balaji Ram, Advocate Sr.No.1472
+1cc to Government Pleader Sr.No.1617

RJ(CO)
sm:7.2.2018