

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2018

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.5826 of 2016

P. Jayaraman

... Petitioner

-Vs-

- 1.The Government of Tamil Nadu
Rep by its Secretary
Revenue Department (Land Acquisition)
Fort St.George, Chennai.
- 2.The District Collector
Erode District, Erode.
- 3.The Revenue Divisional Officer
Land Acquisition
Brough Road, Erode,
Erode District.
- 4.The Special Tahsildar for Land Acquisition
Collector Office Building
Erode District Collector Office
Erode.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents herein to complete the land acquisition proceedings by following the direction issued by this Court by order dated 09.03.2007 made in W.P.Nos.47782 of 2006, 6005 of 2007 and 6355 of 2007 within a time frame, to enable the petitioner to get the adequate compensation to his land.

For Petitioner : Mr.S.Lakshmanasamy

For Respondents : Mr.A.Zakir Husssain
Government Advocate

ORDER

1. The grievance of the petitioner is that his properties in Survey Nos.1336/1, 1333/7, 1336/1,2,3,4,5,6,7 &10 of Kasipalayam

Village, Erode Taluk, Erode District were sought to be acquired by the Government, that a preliminary meeting was conducted on 17.06.2002 and that without acquiring the lands in the manner known to law, the Government has appropriated his properties for the purposes connected with the then existing Tamil Nadu Electricity Board.

2. Mr.S.Lakshmanasamy, learned counsel appearing for the petitioner submitted that the petitioner has been relentless in his persuasion to the authorities concerned to acquire his property in the manner known to law, and as his efforts failed, the petitioner approached this Court in W.P.No:11093/2015 for issuing a Writ of Mandamus to direct the respondents to complete the land acquisition proceedings by following an earlier direction issued by this Court Vide order dated 09.3.2007 in W.P.Nos.47782/2006 that the petitioner had filed for similar purpose. Depriving the petitioner of his property and also the compensation will have a direct impact on the right to life of the petitioner guaranteed under Art.21 of the Constitution, argued the counsel.

4. In a rather lengthy counter affidavit filed by the second respondent . It is inter alia alleged that few rounds of negotiation with the land owners including the petitioner had taken place and land owners keep rejecting the offers made by the Government and in the said circumstances, the District Collector, Erode District has recommended some proposals to the Government to acquire the lands.

5. Heard Mr.A.Zakir Hussain, learned Government Advocate appearing for the respondents and Mrs.S.Kavitha, District Revenue Officer, Erode District, who personally appeared to assist the Court.

6. It is seen that G.O (Ms) No.13(Energy (B1) Department) dated 29.01.2018 has been issued under Section 3(1) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (Tamil Nadu Act 10 of 1999). On instructed by the District Revenue Officer, Erode, the learned Government Advocate submitted that the second respondent is anxious to complete the proceedings pertaining to acquisition without any loss of time.

7.1 It is an admitted fact that the property in question has been taken possession of in 2002, that the same was fully utilised by the Tamil Nadu Electricity Board but shockingly without resort to any acquisition in the manner known to law. And, for the authorities concerned two Orders of this Court one dated 09-03-2007 in W.P.47782/2006 and another dated 16-04-2015 in W.P. 16-04-2016 appear too inadequate to wake them from their slumber and to realise their duty to the petitioner first, and

to this court next. Has petitioner's right to property been subject to conscious devaluation by those who ought to statutorily protect it? Is respect that Orders of Court should command is held to ransom by some in the administrative machinery? Plainly painful.

7.2 Let every officer in the bureaucratic hierarchy realise that they serve the Constitution best who stay in the rule of law and rush to protect the individual right that We, the People, have granted to every citizen.

8. Now after about sixteen years of deliberate hibernation and conscious inaction, the respondent has initiated the acquisition process. In terms of the law now in force, the compensation may have to be paid in terms of the the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 Act, (Central Act 30/2013), but isn't the public finance required to be spent now may be more than that which would have been required had the land been properly acquired in 2002? Will anyone be held accountable for this state of affairs? This Court trusts that none is walled or protected.

9. On facts, it has to be stated that the respondent will waste no time to alleviate the traumatized petitioner with palliative action. The District Revenue Officer, Erode District, who is present today has informed the Court that at the first instance, she would invite the petitioner for negotiation under Section 7 (2) of the Act and in case any consensus could not be arrived at during the negotiation, without any loss of time, she

would refer the matter for an enquiry to pass an award in terms of Section 7(3) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997. In this regard, the District Revenue Officer, Erode District conveyed to the Court that without even waiting for a copy of this order, within a week from today, she would issue notice inviting the petitioner for negotiation under Section 7(2) of the Act, and in the eventuality of the proposed negotiations to take place under Section 7(2) of the Act is failing, she would complete the entire award proceedings within two months thereafter. The said statement of the District Revenue Officer, Erode District is recorded.

10. Accordingly, this writ petition is disposed of with the following set of directions to the second respondent :

- a) The second respondent shall issue a notice inviting the petitioner for a negotiation under Section 7(2) of the Act on or before 08.02.2018, granting 15 days time to the

petitioner to enable him to participate in such enquiry. In case the petitioner expresses his willingness to approach the second respondent even before the expiry of the fifteen days time for negotiation under Section 7(2) of the Act, the petitioner may approach the second respondent, and the second respondent shall commence the negotiation and conclude the process without any loss of time, and in the eventuality of the same failing, shall make a reference forthwith for the authority concerned to proceed under Section 7(3) of the Act.

b) In the eventuality of the respondent proceeding under Section 7(3) of the Act for passing the award, the land acquisition authority is directed to complete the entire process including payment of compensation within two months from the date on which the process under Section 7(2) of the Act has failed.

11. The learned counsel for the petitioner undertook that the petitioner would abide by the directions of this Court and lend his utmost co-operation in bringing it to an end the outstanding dispute. The same is recorded.

12. The Court appreciates the active assistance of the District Revenue Officer, Erode District in the matter.

13. A copy of this Order is directed to be sent to the Chief Secretary, Government of Tamilnadu, who shall (a) monitor the completion of the acquisition proceedings within the time stipulated which included actual payment of compensation to the petitioner; and (b) take note of the paragraphs 7 and 8 above and take such appropriate steps against those who have erred and report.

15. This petition is allowed in the manner indicated above. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ds

To:

1.The Secretary Government of Tamil Nadu
Revenue Department (Land Acquisition)
Fort St.George, Chennai.

2.The District Collector
Erode District, Erode.

3.The Revenue Divisional Officer
Land Acquisition
Brough Road, Erode,
Erode District.

4.The Special Tahsildar for Land Acquisition
Collector Office Building
Erode District Collector Office
Erode.

5.The Chief Secretary,
Government of Tamilnadu
Secretariat
Chennai.

+1cc to the Government Pleader, S.R.No.9013

W.P.No.5826 of 2016

NRK(CO)
RRK(14/02/2018)



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