



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.03.2018

CORAM

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR. C.M.P(MD).No.32 of 2018

Narendra Dairy Farms (P) Ltd.,
represented by its Director,
V.Duraisinga Lakshamana Naicker - Deceased

- 1.D.Rajesh
- 2.D.Satheesh Kumar
- 3.R.Jagadeesh Kumar

... Petitioners/Decree holders
Vs.

1.The Land Acquisition Officer,
Revenue Divisional Officer,
Palani.

2.The Chief Engineer,
P.W.D. Pollachi Region,
Office at Coimbatore.

3.The Superintending Engineer,
P.W.D. Palani.

4.The Executive Engineer,
P.W.D. Nanganchiyar Reservoir Projects,
Palani.

... Respondents/Judgment Debtors

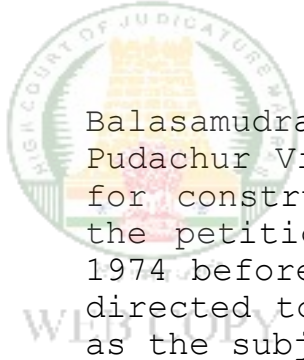
PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, praying to withdraw E.P.No.130 of 2016 pending on the file of Subordinate Court Palani and transfer the same to Fast Track Court-Additional District Judge, Palani.

For Petitioner : Mr.A.Ramesh
For Respondents : Mr.K.Anbarasan,
Additional Government Pleader

ORDER

This Transfer Civil Miscellaneous Petition has been filed to withdraw the petition in E.P.No.130 of 2016 pending on the file of the Subordinate Court, Palani and to transfer the same to the Fast Track Court, Additional District Judge, Palani.

2.The learned counsel appearing for the petitioner would submit that in the year 1971, an extent of 108.51 hectares of land in



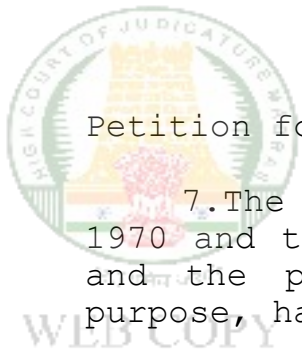
Balasamudram Village and an extent of 63.53 hectares of land in Pudachur Village at Palani Taluk were acquired from the petitioners for construction of Palar-Porandalur Dam. Aggrieved by the same, the petitioners have filed Writ Petitions in W.P.Nos.119 & 120 of 1974 before this Court and this Court, by an order dated 09.04.1979 directed to continue the proceedings under the Land Acquisition Act as the subject lands cannot be brought under the Land Ceiling Act.

3.The learned counsel for the petitioners further submitted that the State had preferred appeals in W.A.Nos.677 & 678 of 1979 and the same were dismissed. Aggrieved by the same, the State had filed S.L.P.Nos.1285 & 1286 of 1992 before the Hon'ble Apex Court. The Hon'ble Apex Court had dismissed the said appeals, confirming the orders of the learned Single Judge, which was confirmed by the Division Bench. He further submitted that the Land Acquisition Officer again issued 4(1) notification on 11.01.1990 for the subject lands and passed award on 10.02.1993 determining the compensation at the rate of Rs.6,881/- per acre. The petitioners not satisfied with the said award and sought for reference under Section 18 of the Act and approached the Subordinate Court, Palani and the Subordinate Court had determined the compensation at the rate of Rs.15,000/- per acre with all statutory benefits from 01.03.1972.

4.Aggrieved by the same, the respondents filed appeals before this Court in A.S.Nos.132 and 133 of 2001 and the petitioners also filed Cross Objections in Crs.obj.No.14 and 15 of 2003. This Court by judgment dated 17.03.2003 had enhanced the compensation to Rs.28,000/-per acre plus additional amount of 12% per annum on the compensation as contemplated under Section 23(1)(a) of the Act and also solatium of 30% of compensation and the interest at the rate specified in Section 34 of the Act.

5.The respondent had filed review petitions in Rev.Nos.78 to 81 of 2004 and this Court by order dated 08.12.2005 dismissed the review petitions. The respondents had filed S.L.P.Nos.8430 to 8433 of 2010 and the petitioners filed S.L.P.Nos.8733 to 8736 of 2010 against the order of this Court. The Hon'ble Apex Court by order dated 22.11.2010 had directed the respondents to deposit the entire claim amount and permitted the petitioners to withdraw 50% without any bank guarantee and remaining 50% with bank guarantee and ultimately the S.L.P. preferred by both parties came to be dismissed on 10.02.2016 and hence, the respondents are bound to comply with the judgement and decree as ordered by this Court and the same was confirmed by the Hon'ble Supreme Court in its letter and spirit.

6.Since the respondents failed to comply with the judgment and decree, the petitioners had filed Execution Petition in E.P.No.130 of 2016 before the learned Subordinate Judge, Palani to execute the decree. In the said proceedings, the learned Subordinate Court ordered notice and respondents represented through Government Pleader, who undertook to file Vakalath and the case has been frequently adjourned. The Court has adjourned the Execution



Petition for filing counter on 08.01.2018.

7.The petitioners filed acquisition proceedings in the year 1970 and the respondents had been litigating for the past 46 years and the petitioners, who lost their valuable lands for public purpose, have not yet seen the colour of the coin.

8.The learned counsel for the petitioners as well as the respondents submitted that this Court consumed more than two hour from its sitting time while calling everyday cases, which were posted before this Court. Therefore, the learned Sub-Court, Palani is not in a position to take up the Execution Petition and dispose the same. Therefore, the petitioners pray for transferring of the case in E.P.No.130 of 2016 from the Sub-Court to the Additional District Judge-Fast Track Court, Palani.

9.The learned counsel appearing for the respondents submitted that both Courts have same powers and therefore, the respondents have no objection to transfer the case.

10.I am satisfied with the reasons stated in the affidavit filed in support of this petition. Therefore, I am inclined to allow the present petition.

11. Accordingly, this petition is allowed with the following directions:

- *The learned Subordinate Judge, Palani is directed to transmit the entire records in E.P.No.130 of 2016 to the file of the Additional District Judge-Fast Track Court, Palani within a period of two weeks from the date of receipt of copy of this order.*
- *The learned Additional District Judge-Fast Track Court, Palani, after obtaining the records on transfer, is directed to dispose of the said case, within a period of six months thereafter, in accordance with law.*

The Transfer Civil Miscellaneous petition is ordered accordingly. No costs.

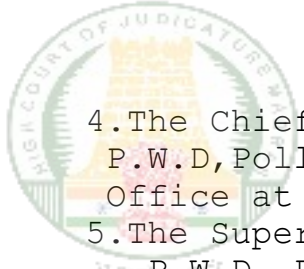
Sd/
Assistant Registrar (P&A)

/True copy/

Sub Assistant Registrar

To

- 1.The Subordinate Judge, Palani.
- 2.The Additional District Judge, Fast Track Court, Palani.
- 3.The Land Acquisition Officer,
Revenue Divisional Officer,
Palani.

- 
- 4.The Chief Engineer,
P.W.D,Pollachi Region,
Office at Coimbatore,
5.The Superintending Engineer,
P.W.D, Palani,
6.The Executive Engineer,
P.W.D.Nanganchiyar Reservoir Projects,
Palani.

+1cc to Mr.A.Ramesh, Advocate, SR.No.53765

+1cc to M/s.Special Government Pleader,SR.No. 54430

TR. C.M.P (MD) .No.32 of 2018
08.03.2018

GNS

KK/RSK/19.03.2018/SAR-4/4P-9C