



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 322 of 2015 and

M.P. (MD) No. 1 of 2015

WEB COPY

K. Tirupathi

... Petitioner

Vs.

1. The Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
St. George Fort,
Chennai - 600 009.

2. The District Collector,
Tirunelveli District,
Tirunelveli.

3. The District Adi Dravidar and
Tribal Welfare Officer,
O/o. The District Adi Dravidar and
Tribal Welfare,
Collector's office Campus,
Tirunelveli - 627 009.

4. The Special Tahsildar,
Adi Dravidar and Tribal Welfare Department,
Sankarankovil Taluk, Sankarankovil,
Tirunelveli District.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records, pertaining to the order passed by the fourth respondent in Na.K.aA/440/2014, dated 31.10.2014 and quash the same as illegal and thereby directing the respondents, to re-convey the lands in 0.19.0 Hectare land in survey No.622/3C and 0.09.5 Hectare land in survey No.622/4B, in Vellakulam Village, in Sankarankovil Taluk, in Tirunelveli District, to this petitioner within a time frame fixed by this Court.

For Petitioner : Mr.F.X.Eugene

For Respondents : Mr.Aayiram K.Selvakumar,
Additional Government Pleader.

O R D E R

The petitioner's lands comprised in survey Nos.622/3C and 622/4b in Vellakulam Village, Sankarankovil Taluk, Tirunelveli District, were acquired under the provisions of the (Tamil Nadu Act 31 of 1978). The petitioner seeks return of the said lands on the ground that they have not been utilised till date. It is a fact



that the lands have not been put to use for the purpose for which they were acquired. But then, on this ground, the petitioner cannot seek reconveyance. This is because, there is no provision for reconveyance in Tamil Nadu Act 31 of 1978. A Writ of Mandamus can be issued only if there is legal entitlement.

WEB COPY

2. I am constrained to sustain the order impugned passed in this Writ petition. The Writ petition stands dismissed, accordingly. At the same time, I am of the view that the same relief can be afforded to the petitioner. The award determining compensation was passed as early as on 24.03.2003. Questioning the same, the petitioner ought to have filed an appeal before the Sub Court under Section 9 of the Act. The appeal should have been filed within a period of six weeks.

3. In this case, the petition has been filed against the authorities for return of the land in question. If the acquisition has been done under provisions of the Land Acquisition Act, where the land owner disputes the determination of the compensation amount, the District Collector is obliged to make an automatic reference to the civil Court. That is the position obtaining even under Tamil Nadu Acquisition of Land for Industrial purposes Act, 1997. But then, there is no scope for making automatic reference under Tamil Nadu Act 31 of 1978. If it is for the land owner to file an appeal before the concerned Court. In this case, the petitioner has failed to do so.

4. The learned counsel appearing for the petitioner submits that they will not pray for interest from the date of award till filing of the appeal. This submission is recorded. Therefore, this Court permits the petitioner to file an appeal before the competent Court under Section 9 of the Tamil Nadu Act 31 of 1978. If such an appeal is filed within a period of two weeks from the date of receipt of a copy of this order, the Court shall entertain the appeal without reference to limitation and dispose of the same on merits and in accordance with law.

5. It is stated that even though the lands were acquired for the welfare of Arundhadhiyar community for constructing a graveyard, till now the scheme is yet to be implemented. The administration is mandated to implement the scheme in question and put the land to use for the purpose for which it was acquired. The petitioner was the President of the village Panchayat. This Court expects the petitioner to extend his co-operation.

6. With this direction, the Writ petition is disposed of. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/

Assistant Registrar

/True copy/

<https://hcservices.ecourts.gov.in/hcservices/>

Sub Assistant Registrar(CS-IV)



To

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Adi Dravidar and Tribal Welfare Department,
Sankarankovil Taluk, Sankarankovil,
Tirunelveli District.

+1cc to Mr.F.X.Eugene, Advocate, SR.No.97314

+1cc to M/s.Special Government Pleader, SR.No.97341

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