



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.23398 of 2018

and

W.M.P. (MD)No.21242 of 2018

R.Sarasa

... Petitioner

/Vs./

1.The State of Tamil Nadu,
Represented by its Secretary,
Transport I-2 Department,
Fort St. George, Chennai.

2.The District Collector,
Madurai District, Madurai.

3.The Special Tahsildhar,
Land Acquisition,
Madurai Airport Expansion,
Madurai - 20.

... Respondents

Prayer: Writ Petition - filed under Article 227 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the order made by the 2nd respondent in Na.Ka.No.30452/2009/B1 dated 09.03.2018 and quash the same as illegal and consequently direct the respondents to release the petitioner's land in S.No.316/5, Block No.7, Perungudi Village Madurai from acquisition forthwith in favour of the petitioner.

For Petitioner	: Mr.Mahaboob Athiff
	for M/s.Ajmal Associates
For Respondents	: Mr.M.Rajarajan
	Government Advocate

ORDER

The petitioner's land measuring about 8 cents and 172 sq.ft in S.No.83/6, Perungudi Village, Block No.7, Madurai was acquired way back in the year 2012. The petitioner's land was acquired for expansion of Madurai Airport. The authorities invoked the provision of TamilNadu Acquisition of land for Industrial Purposes Act, 1997 [hereinafter referred to as "the said Act"]. Notification under Section 3(2) of the said Act was issued on 11.07.2009. Notification under Section 3(1) of the said Act was published in the gazette on



2. Section 4(1) of the said Act states that when a notice under Section 3(1) of the said Act is published in Tamil Nadu Government Gazette, the land to which, the said notice relates shall, on and from the date of such publication, vest absolutely in Government free from all encumbrances. Therefore, the petitioner's land became the absolute property of the Tamil Nadu Government with effect from 16.07.2012.

3. Section 7(11) of the said Act mandates that the Collector shall finalise the exercise of determination of amount of compensation as expeditiously as possible. In any case, six months is the outer time limit. In this case, even though six and a half years have elapsed, the respondents have not finalised the proceedings. This Court finds the delay to be unconscionable. Article 300 (A) of the Constitution of India reads as follows:

"300A. Persons not to be deprived of property save by authority of law - No person shall be deprived of his property save by authority of law."

4. The land belonging to a person can be acquired only for public purpose and he should also be paid due compensation. Unless both these conditions are satisfied, depriving the owner of his land can only be said to be unlawful expropriation. In this case, no doubt, the petitioner's land was acquired for a public purpose namely expansion of Madurai Airport. The authority should have shown equal alacrity in paying compensation also.

5. Even today, the Government Advocate submits that six more weeks are required for issuing the GO and for paying the compensation. A sum of Rs.1,34,836/- [Rupees One Lakh and Thirty Four Thousand and Eight Hundred and Thirty Six only] is to be paid to the petitioner and that amount includes the land value, solatium and the interest component. Of course, the petitioner will be entitled to seek enhancement of the compensation upon being intimated in writing about the quantum of compensation to be paid to him.

6. The learned counsel appearing for the petitioner would contend that the petitioner is entitled to the enhanced benefits as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. This contention is left open. It is always open to the petitioner to accept the aforesaid sum as determined by the respondents without prejudice to his rights to claim enhanced compensation.

7. The matter cannot end there. This Court can only express its utter shock and surprise over the enormous delay in not only determining the compensation amount, but also its disbursal. When the Government intends to acquire the land of a private person, it should keep the amount ready and only thereafter acquire the land. It appears that in this case even though the funds were not



available, the acquisition process went ahead. We are a democracy. The rights of the people must be respected. Conduct of the respondents is unfair. They have not been true to the values enshrined under Article 300(A) of the Constitution of India.

8. Even while disposing of this writ petition by directing the respondents to disburse the said sum of Rs.1,34,836/- [Rupees One Lakh and Thirty Four Thousand and Eight Hundred and Thirty Six only] to the petitioner within a period of six weeks from the date of receipt of a copy of this order, this Court directs the first respondent to pay a sum of Rs.25,000/- as cost to the petitioner.

9. There is no provision for reconveyance in the TamilNadu Acquisition of land for Industrial Purposes Act, 1997. The property has already become the absolute property of the Government. Therefore, the request for reconveyance cannot be granted.

10. This writ petition is disposed of in the above terms. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(P AND A)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1.The Secretary, The State of Tamil Nadu,
Transport I-2 Department,
Fort St. George, Chennai.

2.The District Collector,
Madurai District, Madurai.

3.The Special Tahsildhar,
Land Acquisition,
Madurai Airport Expansion,
Madurai - 20.

• 1 CC TO M/s.Ajmal Associates IN SR No.97324.
+1 cc to Special Government Pleader, SR.No.97610.

Sm
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Order made in
W.P.(MD)No.23398 of 2018