



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.10.2018

CORAM:

WEB COPY

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.P.(MD)No.12595 of 2016

R.Saravanan

.. Petitioner

Vs.

1.The District Collector,
Karur District,
Karur.

2.The District Revenue Officer,
Karur.

3.The Special Tahsildar (Land Acquisition),
Office of the Taluk Office,
Karur.

4.The Deputy Chief Engineer (Construction),
Southern Railway,
Salem Division,
Salem.

.. Respondents

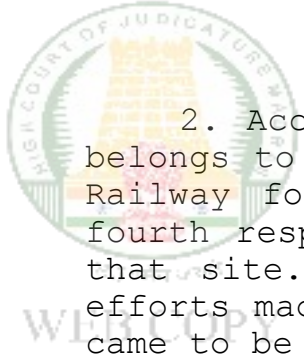
PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of MANDAMUS, directing the second and fourth respondents herein to pay the compensation to the petitioner for acquiring his lands in Survey Number 249/4 to the extent of 0.32.0 hectares situated at Kadaparai Village, Manmangalam Taluk, Karur District, on the basis of the petitioner's representation dated 07.06.2016, within a stipulated time frame.

For Petitioner : Mr.V.Meenakshi Sundaram
for Mr.M.Bindran

For Respondents : Mr.A.Thiyagarajan,
Government Advocate for R.1 to R.3
Mr.C.Vakeeswaran for R.4

ORDER

This writ petition has been filed seeking issuance of a Writ of Mandamus to direct the respondents 2 & 4 to pay the compensation to the petitioner for the acquired lands in Survey No.249/4 to the extent of 0.32.0 Hectares situated at Kadaparai Village, Manmangalam Taluk, Karur District.



2. According to the petitioner, the subject mentioned property belongs to him and the same was acquired by the fourth respondent / Railway for the purpose of laying railway line and in fact, the fourth respondent / Railway dumped huge chunk of granite stones at that site. However, no compensation was awarded, despite sincere efforts made by the petitioner and hence, the present writ petition came to be filed.

3. For better appreciation of the case, the Court proceedings are referred infra. When the matter came up for hearing on 02.07.2018, this Court, after hearing the arguments advanced by the learned Counsel on either side, has passed the following order:

"The petitioner's land to an extent of 79 cents (0.32.00 hectares), Vengapalayam Village of Karur District was sought to be acquired for the purpose of laying railway line.

2.The petitioner has also given his consent for acquisition. Pursuant to the same, the fourth respondent Railway dumped huge chunk of granite stones at that site. The materials are still lying in the site for about 4 years. The petitioner is not in a position to use the same in view of dumping of stones and materials. Now that, the Railway have dropped the acquisition proposal for want of funds. However, the materials dumped in the petitioner's land has not been removed.

3.This Court directed the fourth respondent to appear before this Court along with records. Today, Mr.Vincent, Assistant Executive Engineer has appeared before this Court.

4.On notice, Mr.Vakeeswaran, learned Counsel for the fourth respondent represented that the project was completed and contract was also over and therefore, they are not in a position to remove the materials.

5.The learned Counsel for the fourth respondent would further submit that the Railway will give up right over the materials and the petitioner is free to remove the same at his own cost and sell the materials.

6.The learned Counsel for the petitioner submits that for selling of materials, he needs to take appropriate license and he has to spend so much of money and therefore, he is not in a position to do the same and the petitioner wants compensation for the land, which was sought to be acquired or damages for the usage of the land till removal of debris from the site.

7.The learned Counsel for the fourth respondent seeks time to file a counter.



8.Post on 09.07.2018."

4. Thereafter, the matter was adjourned twice and when it was taken up for hearing on 19.07.2018, this Court has passed the following order:

WEB COPY

"..2.According to the petitioner, he has no grievance against the acquisition. All he needs, is the payment of compensation. Initially, the Railway wanted the acquiring body to acquire the lands of the petitioner and after some time, the proceedings were sought to be dropped in respect of petitioner's land alone. In the meanwhile, large sunk of boulders were dumped in the petitioner's place incapacitating him from using the lands for any purpose.

3.The learned Counsel for the fourth respondent/Railway, on instructions, submitted that the Railway is willing to take over the land and the third respondent can continue the acquisition proceedings. In the event of award being passed by the fourth respondent, the Railway is willing to deposit the amount.

4.In view of this factual position, this Court directed the first respondent to come out with the quantum of compensation for disposing of this writ petition.

5.Today, when the matter is taken up for hearing, the learned Government Advocate appearing for the respondents 1 to 3 seeks time for reporting the quantum of compensation before this Court.

6.List the matter on 27.07.2018."

5. After several adjournments, the learned Government Advocate produced a copy of the proceedings of the Revenue Divisional Officer, Karur, in Na.Ka.A/180/2014 dated 31.07.2018, which was addressed to him. It is nothing but the valuation of the land and compensation, which amounts to Rs.2,10,38,037/-, including solatium and interest. In that said proceedings, it was mentioned that the subject property is a temple property and in that regard, a Public Interest Litigation in W.P.(MD)No.64 of 2018 is pending before this Court. The learned Counsel for Railway sought for an adjournment, in order to produce the counter affidavit filed in the said writ petition. In that backdrop, the matter was adjourned.

6. Thereafter, the learned Counsel for the fourth respondent / Railway, by way of typed set of papers, has produced a copy of the counter affidavit filed by the District Collector, Karur, in W.P. (MD)No.64 of 2018, who is also the first respondent herein, and submitted that the land in question is a temple property. It is seen that the property in question is Survey No.249/4 situated at Kadaparai Village, Manmangalam Taluk, Karur District. On a closure



scrutiny of the counter affidavit in W.P.(MD)No.64 of 2018, with regard to the subject property, it has been averred as follows:

"(*from page no.44 of the typed set of papers filed by R4 / inner page no.39 of the counter affidavit in WP(MD) No.64/2018)

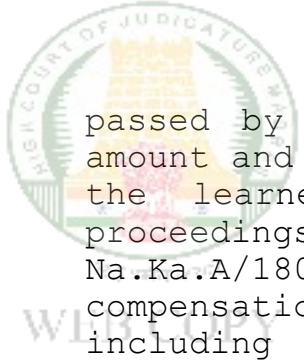
...
iii)the lands that were registered in the name of the temple as per the settlement register, 1912, but, pattas issued as per Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act 30 of 1963 etc. (Andankovil East Village Survey No - 7, 20, 21, 22, 23, 25, 26, Kathaparai Village Survey No - 182, 184, 192, 246, 249, 181, 250 and Authur Village Survey No - 566, 568).

....
... In respect of the lands for which pattas have been issued as per Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act 30 of 1963, the decisions made during the final settlement enquiry under the said Act have become final and appeal / revisions can be preferred only as per the sections provided in the Act. The statutory orders passed by the settlement authorities cannot be interfered with by the revenue authorities."

7. It is not in dispute that the petitioner got his patta in respect of the subject property under Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act and admittedly, no appeal / revision was preferred as against the same, which means, the same holds good, as on date. Therefore, this Court is of the view that the counter affidavit relied on by the learned Counsel for the Railway will not come to their rescue and in fact, the same stands in the favour of the petitioner.

8. Therefore, the Railway has to comply with the undertaking given before this Court that in the event of award being passed by the Government, they will deposit the same. But, the learned Counsel for the Railway has now taken a plea that formal land acquisition proceedings has not been taken place and therefore, the Government may be directed to proceed for land acquisition and fix compensation, so that they can deposit the compensation. Though the stand of the Railway is correct, this Court is not inclined to accept the same, for the reasons cited infra.

9. Admittedly, the land was acquired by the Railway long back and the same has been put into use. After some time, the proceedings were sought to be dropped in respect of the petitioner's lands alone, however, leaving the large sunk of boulders which were dumped in the lands incapacitating him from using the lands for any purpose. Thereafter, they undertook that they will take over the land. Now the Railway has taken a plea that formal land acquisition procedure has to be taken. In the earlier occasion, the learned Counsel for the Railway undertook that in the event of award being



passed by the Government, the Railway is willing to deposit the amount and subsequent thereto, based on the direction of this Court, the learned Government Advocate has produced a copy of the proceedings of the Revenue Divisional Officer, Karur, in Na.Ka.A/180/2014 dated 31.07.2018 (referred to supra), whereby, the compensation was fixed as Rs.2,10,38,037/-, including solatium and interest. This compensation amount is not disputed by the learned Counsel for the Railway and therefore, they are liable to pay the compensation to the petitioner.

10. In view of the foregoing discussions, this Court, in the interest of justice, is passing the following directions:

- Since the proceedings of the Revenue Division Officer, Karur, in Na.Ka.A/180/2014 dated 31.07.2018, is a communication addressed to the learned Government Advocate, the first respondent is hereby directed to pass appropriate final order, with regard to compensation, in the light of the proceedings of the Revenue Divisional Officer, Karur, in Na.Ka.A/180/2014 dated 31.07.2018 (referred to supra), within a period of two weeks from the date of receipt of a copy of this order; and
- On receipt of the same, the fourth respondent, ie., the Railway, shall pay the entire compensation amount to the petitioner, within a further period of eight weeks thereafter.

11. With the above directions, this writ petition is allowed. However, there shall be no order as to costs.

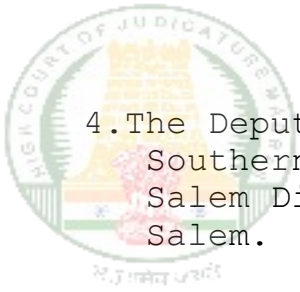
Sd/-
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1. The District Collector,
Karur District,
Karur.
2. The District Revenue Officer,
Karur.
3. The Special Tahsildar (Land Acquisition),
Office of the Taluk Office,
Karur.



4.The Deputy Chief Engineer (Construction),
Southern Railway,
Salem Division,
Salem.

5.The Revenue Divisional Officer,
Karur.

+1cc to Mr.M.Bindran Advocate in SR.No.93557

+1cc to Mr.C.Vakeeswaran Advocate in SR.No.92655

W.P. (MD) No.12595 of 2016
29.10.2018

GK

PSSKN SAR4 12.12.2018 6P 8C