

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2019

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.4133 of 2008

W.M.P.No.1 & 2 of 2008

Narendra Dairy Farm P.Ltd.,  
Pappampatti village, Palani Taluk,  
Dindigul District rep. by its  
Director R.Jagadish Kumar

...Petitioner

Versus

- 1.The Secretary to Government,  
Public Works Department,  
Government of Tamilnadu,  
Fort.St.George, Chennai-9.
- 2.The District Collector,  
Dindigul District, Dindigul.
- 3.The Land Acquisition Officer,  
Public Works Department,  
Nangachiyar Reservoir Project,  
Palani.
- 4.The Executive Engineer,  
Public Works Department,  
Nangachiyar Reservoir Project,  
Palani, Dindigul District.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records to the order passed by the third respondent in ROC SSR No.6/93/A2 dated 26.12.2007, and quash the same and direct the respondents to pay compensation to the petitioner.

For Petitioner : M/s.P.Solomon Frencis

For Respondents : Mr.M.Elumalai  
Government Advocate

## O R D E R

This writ petition has been filed seeking to quash the order passed by the third respondent in ROC SSR No.6/93/AZ dated 26.12.2007 and direct the respondents to pay compensation to the petitioner.

2.The petitioner company is a private limited company and was incorporated for the purpose of developing Dairy Farm and its allied activities at Papampatti Village near by Palani and it had owned several hundreds of acres of land in the village of Balasamudram and Pudachu near Papampatti at the foot hills of western ghats. During the year 1971, the Government proposed to construct a Dam across the rivers of Palar and Purandalar for which 411.04 acres of lands in Balasamudram and Pudachu Villages of Palani Taluk were acquired by the Land Acquisition Officer, Palani. The entire 411.04 acres were taken and notice under Section 4(1) of Land Acquisition Act (hereinafter called as 'the Act') was also issued. The said notice was challenged by way of writ petition before this Court and the same was allowed in favor of the petitioner. Aggrieved by the same, the respondent preferred an appeal, which was dismissed by the Division Bench of this Court. As against a Special Leave petition was also preferred, which was later dismissed as withdrawn. The construction of the Dam was completed in the year 1978. Thereafter, the respondents issued notification under Section 4 (1) of the Act in the year 1990 and passed an award in the year 1993 and fixed the compensation at Rs.6,880/-per acre. Aggrieved by the said compensation, the petitioner referred their claim to the Sub-Court, Palani under Section 18 of the Act, wherein the compensation was enhanced to Rs.15,000/- per acre, against which the petitioner preferred appeals in A.S.No.132 and 133 of 2001 and also preferred cross appeals before the Division Bench of this Court and this Court by an order dated 17.03.2003 enhanced the compensation to 28,000/- per acre with all components under the Act. Since, the respondents did not deposit the compensation as directed by the Division Bench of this Court on 17.03.2003, the petitioner along with other land owners preferred writ petition in W.P.No.31886 of 2003, wherein this Court by an order dated 17.11.2003, directed the State to deposit the compensation amount before the Reference Court on or before 10.04.2004, for which the Government informed that they have filed review petitions in A.S.Nos.132 and 133 of 2001 and awaiting result of the same. The said review petitions were dismissed by this Hon'ble Court. Thereafter, the Land Acquisition Officer calculated that a sum of Rs.8.75,33,419/- being the balance amount to be paid to the landowner and the amount was deposited in the Sub-Court, Palani on 03.06.2002. Thereafter, the

respondents filed a petition to recall order in W.P.No.31886 of 2003, wherein they had agreed to pay the compensation amount within certain time and also stated that they have made excess payment to the petitioner and other land owners. The said writ petition was dismissed by this Court on 20.11.2006. Thereafter, the 3<sup>rd</sup> respondent instead of making payment has passed an impugned order dated 26.12.2007, seeking to repay the excess amount said to have been paid by the government to the petitioner and other land owners as compensation for the lands acquired from them. Aggrieved by the said impugned recovery notice, the present writ petition has been filed.

3.Heard Mr.P.Solomon Francis, learned counsel appearing for the petitioner and Mr.M.Elumalai, learned Government Advocate appearing for the State.

4.The learned Government Advocate appearing for the State would submit that the petitioner and other land owners have subsequently filed CMP.Nos.35 to 38 of 2009 in Review Application Nos.78 to 80 of 2004 in A.S.Nos.132 and 133 of 2001, wherein the Division Bench of this Court by an order dated 21.10.2009, directing the respondents to pay 9% interest for the period for which the petitioners were forced to be out of possession of their land. The petitioners are entitled to interest/damages at the rate of 9% over the compensation granted for the period from 01.03.1972, the date of taking possession of the land till 10.09.1990, the previous day of the issuance of second 4(1) notification. From 11.09.1990, the date of the second 4(1) notification till 10.02.1993 the date of award, the petitioners are entitled to additional amount as per section 23 (1-A) of the Act. The learned Government Advocate stated that pursuant to the above said order, the Sub-Collector, Palani, vide letter in C.Va.Pa.No.6/1993/A2 dated .08.2019 has recalled the impugned order dated 21.10.2009 and he has also produced the copy of the letter of the Sub-Collector, Palani.

5.In view of the above recent development, nothing survives for further adjudication. Accordingly, this writ petition stands closed. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

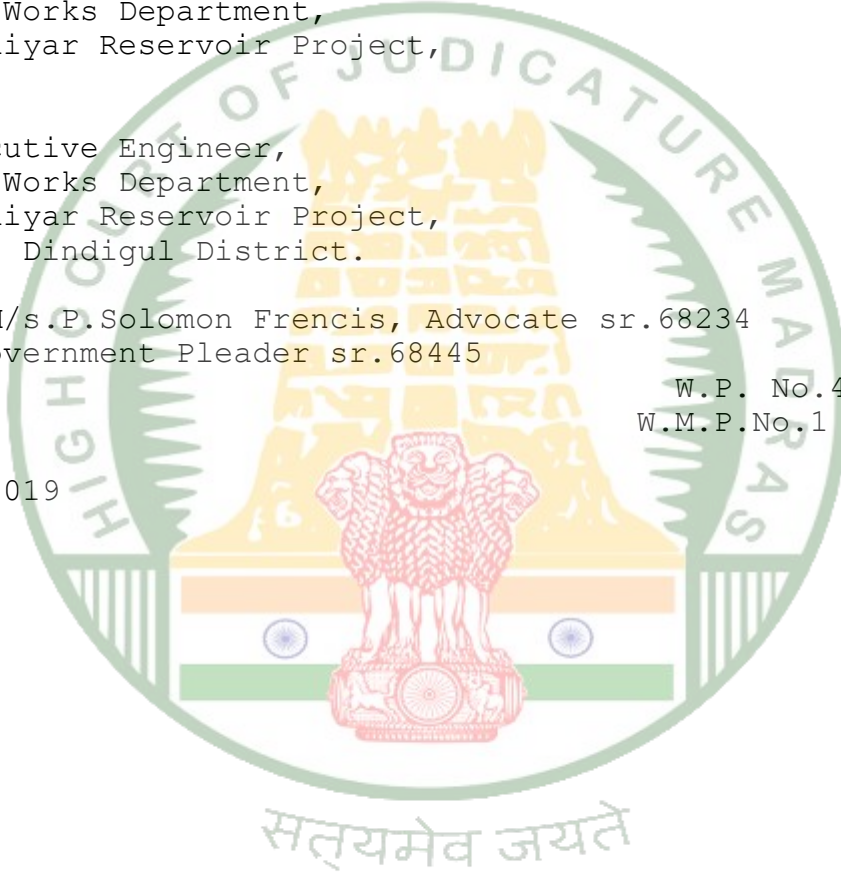
To

- 1.The Secretary to Government,  
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- 4.The Executive Engineer,  
Public Works Department,  
Nangachiyar Reservoir Project,  
Palani, Dindigul District.

+1cc to M/s.P.Solomon Francis, Advocate sr.68234  
+1cc to Government Pleader sr.68445

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