

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2019

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.7626 of 2012
and M.P.No.1 of 2012
and W.M.P.No.6801 of 2018

1.S.Devaraj

2.S.Ramalingam

...Petitioners

vs.

1. The Superintending Engineer/Civil,
Hydro Project/Vendipalayam,
Erode - 2.

2. The Executive Engineer/Civil,
Bhavani Kattalai Barriage - II, (BKB - II)
Vendipalayam,
Erode - 2.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of a writ of certiorarified mandamus, call for the entire records relating to the impugned order passed by the 1st respondent in Memo.No.SE/C/HP/VPM/AEE/MM/SDM.I/ F.BKBII(R.F) TreesComp./D.267/2011, dated 03.09.2011 and quash the same and consequently direct the respondents to pay enhance compensation for cut down big trees a sum of Rs.5,000/- per tree, a sum of Rs.4,000/- for small big coconut trees each, a sum of Rs.500/- each for coconut plant and a sum of Rs.750/- each for palm trees to the petitioners.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.N.Damodaran R1 & R2
TNEB

ORDER

This writ petition has been filed by the petitioner to quash the impugned order dated 03.09.2011, passed by the first respondent and consequently direct the respondents to pay the

petitioner enhanced compensation for cutting down big trees at Rs.5,000/- per tree, a sum of Rs.4,000/- per tree for small coconut trees, a sum of Rs.500/- each for coconut plant and a sum of Rs.750/- each for palm trees to the petitioners.

2.It is the case of the petitioners that for construction of staff quarters for Bhavani Kattalai Barriage - II (BKB - II), check dam project, their lands were acquired and their trees were cut by the respondents. According to the petitioners, the respondents have fixed the compensation for the felled trees in the petitioners land under the impugned order dated 03.09.2011.

3.Aggrieved by the quantum of compensation awarded to the petitioners for the felled trees under the impugned order, this writ petition has been filed.

4.A counter affidavit has also been filed by the respondents denying the allegations contained in the writ petition.

5.According to them, the price was fixed for the felled trees of the petitioners only based on the rates which was approved by the Agricultural Department, Erode vide their letter dated 10.07.2006 i.e., the rates for the coconut trees big and small assessed at Rs.5,000/- and Rs.4,000/- respectively, for tender coconut trees the rate was Rs.500/- each and palm trees big at Rs.750/- each.

6.It is their case that the land owners have stated in their letter dated 17.07.2007 that they are agreeable to the price as fixed by the Agricultural Department. Therefore, according to the respondents, the petitioners having agreed to receive the compensation as per the rates fixed by the Agricultural Department, they cannot file a writ petition seeking enhancement of compensation for the felled trees.

7.Heard Mr.C.Prakasam, learned counsel for the petitioner and Mr.N.Damodaran, learned counsel for the respondents.

8.Admittedly, in the case on hand, the petitioners and other land owners in the same area where the lands were acquired for the check dam project, have agreed to receive the compensation for the felled trees as per the rates fixed by the Agricultural Department, Erode. The Agricultural Department, Erode has also after inspection of the trees belonging to the petitioners which were felled by the respondents have given an assessment report fixing the price for the trees felled by the respondents at the petitioners land. The impugned G.O. has taken into consideration, the rates fixed by the Agricultural Department and only thereafter has fixed the price of the trees belonging

to the petitioners which were felled by the respondents for construction of staff quarters for the check dam project. The adjacent land owners who were also compensated for their trees have also been paid only based on the rates fixed by the Agricultural Department, Erode. The land owners have infact addressed a letter to the respondents agreeing to receive the compensation for the felled trees as per the rates fixed by the Agricultural Department, Erode.

9.For the foregoing reasons, the petitioners are estopped from reagitating for enhanced compensation in view of the fact that they have already agreed to receive the compensation as per the rates fixed by the Agricultural Department, Erode for their felled trees.

10.For the aforementioned reasons, this Court is of the considered view that impugned order does not suffer from any infirmity and there is no merit in this writ petition.

11.Accordingly, the instant writ petition shall stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed if any.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

pam
To

1. The Superintending Engineer/Civil,
Hydro Project/Vendipalayam,
Erode - 2.
2. The Executive Engineer/Civil,
Bhavani Kattalai Barriage - II, (BKB - II)
Vendipalayam,
Erode - 2.

+1 CC to Mr.N.Damodaran, Advocate sr 102857
+1 CC to Mr.C.Prakasam, Advocate sr 102949.

W.P.No.7626 of 2012

PP(CO)
SP(03/01/2020)