



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.10.2019

Coram::

The Honourable Dr.Justice G.Jayachandran

W.P.No.26830 of 2019
& W.M.P.No.26234 of 2019

1. T.Nandagopal,
S/o.Thillai Govindan,
No.86, Main Road,
Arumbarthapuram,
Puducherry - 605 010.
2. B.Devi,
W/o.R.Balasubramanian,
No.12, Koil Street,
Mery Uzhavarkarai,
Puducherry - 605 110.
3. A.Sundari,
No.12, Mariamman Koil Street,
Mery Uzhavarkarai,
Puducherry - 605 110.
4. S.Parthasarathy,
No.39, Vinayagar Koil Street,
V.Manavelly,
Pondicherry.
5. Saraswathy,
W/o.R.Manochozan,
No.18, Mariamman Koil Street,
Mery Uzhavarkarai,
Puducherry - 605 110.
6. M/s.Vishnu Saw Mill,
Rep. by G.Patel,
Villupuram Main Road,
Villianur Thanda Chady,
G.N.Palayam, Villanur,
Pondicherry - 605 110.

7. K.Suganya,
W/o.K.P.Nanu,
C/o.Bharathi Bakery,
Villupuram Main Road,
Villianur Thanda Chady,
G.N.Palayam, Villanur,
Pondicherry - 605 110.
8. S.Jothi,
W/o.Chandrasekaran,
No.5, Villianur Main Road,
G.N.Palayam,
Arumbarthapuram,
Puducherry - 605 110.
9. P.Dinakaran,
S/o.P.Palaniswamy,
C/o.P.Palaniswamy Metal Industry,
Villupuram Main Road,
G.N.Palayam,
Arumbarthapuram,
Puducherry - 605 110.

... Petitioners

/versus/

1. The Collector,
Villianur District,
Pondicherry.
2. The Sub Collector (Revenue) cum
Land Acquisition Officer,
Villianur District,
Pondicherry.
3. The Executive Engineer,
National Highways Department,
Public Works Department,
Pondicherry.
4. The Government of Pondicherry,
Rep. by the Secretary to Government,
Public Works Department,
Pondicherry.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue Writ of Mandamus, directing the respondents herein to forbear from forcibly taking possession of petitioners' lands without following the due procedures provided under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 to acquire and pay the compensation or pay the compensation amount by mutual negotiations with the petitioners in respect of the land pertaining to (1). T.Nandhagopal, Survey No.82/2B, to an extent of 65046 sq.ft (2) B.Devi, Survey No.66/1B, to an extent of 1281 sq.ft (3). A.Sundari, Survey No.66/1B & 66/4B to an extent of 1302 sq.ft (4). S.Parthasarathy, Survey No.65/1 to an extent of 1184 sq.ft (5) R.Manuchozhan, Survey No.68/9B to an extent of 2121 sq.ft, Odhiyampet (6). M/s.Vishnu Saw Mills, Survey No.180/3 to an extent of 786 sq.ft (7). K.Suganaya, Survey No.176/1B/2 to an extent of 4682 sq.ft (8). C.Jothi, Survey No.177/2B to an extent of 5307 sq.ft (9). P.Dinakaran, Survey No.181/2B, to an extent of 5156 sq.ft, Kurumbapet in Pondicherry Taluk & District.

For Petitioner : Mr.M.Naraayanaswamy

For Respondents : Mr.A.V.Ramalingam
Additional Government Pleader,
Puducherry

O R D E R

Heard the Learned Counsel for the Petitioners and the Learned Additional Government Pleader (Puducherry) for the Respondents.

2. The Petitioners herein are land owners for different extent in Odiampet Village and Kurumbapet Village, Puducherry, for the construction of link road, South of Puducherry-Villupuram Railway line passing through Arumbathapuram. The petitioners land was sought to be acquired by the Highways Department under the Old Land Acquisition Act, 1894. After notification under Section 4(1) of the old Land Acquisition Act on 30.09.2006, the proceedings got culminated in passing of award on 16.11.2009. Since no proper opportunity of hearing under Section 5(A) of the Act was provided to the petitioners/landowner, the Writ Petition No.7070 of 2010 was filed before this Court. This Court, after considering the merits of the petitioners case, passed the following order:-

"The land Acquisition proceedings in respect of the nine petitioners is held to have been lapsed with direction to the respondents to issue fresh notification for acquisition of the lands, within a period of two weeks from the date of receipt of a copy of this order with a further direction to the petitioners to surrender the possession of the lands to the respondents so as to enable the project which is of public importance to proceed further"

3. Aggrieved the said order passed in W.P.No.7070 of 2010, the petitioners preferred appeal in W.A.No.279 of 2016, which was allowed on 16.03.2016, setting aside the direction given to the petitioners to surrender possession of their lands to the respondents. Under the above said circumstances, the respondents invited the petitioners for private negotiation on 26.08.2016 for amicable settlement. The petitioners demanded compensation as per the new Land Acquisition Act and valued their property between Rs.770 sq.ft to Rs.1800 per sq.ft. A mutual agreement was arrived between the petitioners and the respondents on 26.08.2016, though the petitioners were ready to receive the compensation amount as agreed through the private negotiation, the respondents have not initiated any proceedings under the Right to Fair Compensation Transparency in Land Acquisition, Rehabilitation and Re-settlement Act - 2013, to acquire the petitioners land and pay compensation for the said land. But without following the procedures established under law, the respondents are trying to forcibly entry upon the lands of the petitioners to form the Road. Hence, the petitioners have made a representation on 24.06.2018 & 30.08.2019 to the 1st respondents seeking compensation as per law in force. Till date the respondents have not heeded to the said request, hence the present Writ Petition to issue Mandamus directing the respondents to pay compensation as per the New Land Acquisition Act - 2013.

4. In the counter filed by the 3rd respondent, it is stated that the averment of the petitioners that, their land were forcibly taken possession without following due procedure provided under Right to Fair Compensation Transparency in Land

Acquisition, Rehabilitation and Re-settlement Act - 2013 is incorrect. When the Government of Puducherry proposed to form new link Road South of Puducherry - Villupuram Railway line bypassing LC39 at Arumbarthapuram at the length of 4.45 kms and width of 22 mts, starting from Natesan Nagar junction near the Mosque in Puducherry-Cuddalore arm and join the Villupuram arm at Arumbarthapuram, the land of the petitioners and others were sought to be acquired based on the request of District Collector (Revenue) North, for a sum of Rs.8,43,49,579/- was remitted for Land Acquisition. After acquisition of land, bypass road upto length of 2.25kms was taken up for formation of earthen road in the portion of the land handed over by the Deputy Collector (Revenue) North. The balance length of the bypass road, action was initiated for acquisition of land and 4(1) notification was published in the Gazette on 30.09.2006 under Section 17 of the land Acquisition Act 1894. The compensation amount to a tune of Rs.1,89,86,859/- was also remitted. In the said circumstances, 9 out of 62 land owners challenge the award in W.P.No.7070 of 2010, this Court, after considering the public importance of the project and completion of the project for a length of 2.20 kms out of 4.45 kms partly allowed the Writ Petition directing the respondents to issue fresh notice to the 9 petitioners who have challenged the acquisition and complete the process of paying compensation, based on the data, on the date of fresh notification. Few other Writ petitions filed belatedly challenging the acquisition was dismissed on the ground of laches.

5. The petitioners not satisfied with the order passed by this Court in W.P.No.7070 of 2010 which partly allowing their prayer, preferred Writ Appeal in W.A.No.279 of 2016. In the Writ Appeal, the direction issued to the land owners to handover the possession was quashed. Consequently, under the Chairmanship of the Hon'ble Minister for Public Work along with Secretary (Works), Deputy Collector, Chief Engineer (PWD), Deputy Collector (Revenue) South, the land owners had joint meeting on 26.08.2016, to arrive at fair price of land. The petitioners have also agreed for the enhanced compensation fixed during the negotiation but thereafter, there was no response from the land owners which has hampered the completion of the bypass road project. Subsequently, when the meeting held on 08.03.2017, it was decided to acquire the land from the petitioners as per the provision of Right to Fair Compensation Transparency in Land Acquisition, Rehabilitation and Re-settlement Act - 2013.

6. Fresh proposal for acquiring land to an extent of 00.11.93 Hectares pertaining to four land owners of Kurumbapet revenue village and further proposal to an extent of 00.65.72 Hectares pertaining to five land owners of Odiampet revenue village was submitted to District Collector during the month of May & August - 2017. Social impact assessment was conducted and the expert committee submitted the report to the Government as per the provision of Right to Fair Compensation Transparency in Land Acquisition, Rehabilitation and Re-settlement Act - 2013. The decision of the Government was published in Tamil and English daily newspaper on 26.06.2018. The District Collector has deposited a sum of Rs.4,88,93,640/- towards the tentative cost of Acquisition on 16.11.2018. The preliminary notification was issued on 01.12.2018. The draft Rehabilitation and Resettlement scheme was published in the Official Gazette No.99, dated 14.05.2019. After conducting public hearing on 30.05.2019 in which the petitioners also participated, the respondents proceeded to issue declaration under Section 19(2) of Right to Fair Compensation Transparency in Land Acquisition, Rehabilitation and Re-settlement Act - 2013 and Rules 25 of the Puducherry RFCTLARR Rules, 2016. The District Collector has requested to deposit Rs.4.40 crores (90% of the compensation amount) on 04.06.2019. Accordingly, a sum of Rs.2,08,52,000/- has been deposited to the District Collector on 31.07.2019 and the 2nd instalment amount of Rs.2,80,41,640/- has been sanctioned by the Government on 26.09.2019, same will be deposited with the District Collector within 10 days.

7. Placing the events as above, the 3rd respondent in the counter, has further stated that, the work of constructing approach road through Road over Bridge was started on 28.01.2016 with a tendered cost of Rs.23.60 crores. Almost 80% of the construction work completed at the cost of Rs.16.27 crores. Two numbers of piers could not be constructed which lies in the lands of two of the petitioners herein. As a consequence, 4 numbers of deck slab could not be completed. In view of the litigation, the entire project is held up which could not be completed within the time frame. The Officials have met the land owners and had explained the financial constraints to the state due to prolong delay in completion of the work and they have assured the land owners to pay the compensation, within two months time. At the request of the land owners, alternate approach road facility also been formed to avoid any hindrance which may cause to them due to the construction activity.

8. The Learned Additional Government Pleader (Pondicherry) for the respondents submit that the petitioners have suppressed the truth has filed this Writ Petition which is liable to be dismissed in limine.

9. Considering the submissions made by the learned counsel for the petitioners and the Learned Additional Government Pleader (Puducherry) for the respondents, this Court finds that, the respondents after their attempt of private negotiation failed, had issued preliminary notification on 01.12.2018 in respect of the lands owned by the petitioners. In the said notification, it is clearly observed that, for the public purpose namely formation of link Road passing through Arumbarthapuram Natesan Nagar segment. Social impact assessment study was carried out and administrator for the purpose of Rehabilitation and Resettlement for the affected families was appointed. Subsequently, on 13.05.2019, notification regarding Rehabilitation and Resettlement scheme in respect of persons interested in the land has also been published in the Gazette. Public hearing was given to the parties interested on 30.05.2019. The report of the public hearing which was conducted on 30.05.2019 indicates that the petitioners herein have participated and registered their views. As a follow up, the Government of Puducherry has issued G.O.Rt.No.10, dated 25.07.2019, fixing compensation to the respective land owners, as per the provisions under Right to Fair Compensation Transparency in Land Acquisition, Rehabilitation and Resettlement Act - 2013 and a sum of Rs.2,08,52,000/- also been deposited with the District Collector as First Part Payment towards the Compensation. The Government of Puducherry has issued subsequent G.O.Rt.No.14, dated 26.09.2019, sanctioning the balance Part of compensation amount to a tune of Rs.2,80,41,640/-.

10. From the representation and the affidavit of the petitioners their intention is clear and specific. They are not adverse to the acquisition of their land for the public purpose but they want adequate compensation as per the provisions of Right to Fair Compensation Transparency in Land Acquisition, Rehabilitation and Re-settlement Act - 2013. From the G.O.Rt.No.10, dated 25.07.2019 and G.O.Rt.No.14, dated 26.09.2019, this Court finds that the respondents has arrived the compensation of the land acquired as per the New Land Acquisition Act, 2013. If the petitioners are not agreeable to the quantum of compensation awarded and are of the view that it is inadequate and not in consonance with Act and Rules framed

thereunder, it is opened to the petitioners to agitate before the appropriate forum for enhanced compensation.

11. Hence, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Asst.Registrar (INSP CELL)

/true copy/

Sub Asst. Registrar

bsm

To,

1. The Collector,
Villianur District,
Pondicherry.
2. The Sub Collector (Revenue) cum Land Acquisition Officer,
Villianur District,
Pondicherry.
3. The Executive Engineer,
National Highways Department,
Public Works Department,
Pondicherry.
4. The Secretary to Government,
The Government of Pondicherry,
Public Works Department,
Pondicherry.

+1 cc to Mr.M.Narayanaswamy Advocate sr84897

+1 cc to Government Pleder Puducherry madrassr90111

W.P.No.26830 of 2019

rsk(co)
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