



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.07.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR

W.P. (MD) No. 13912 of 2019

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S. Sami Nadar

Rep. By his Power Agent J. Ubalt Raj

... Petitioner

Vs.

The Special Tahsildar (Land Acquisition),
Interlinking of Rivers (Unit - 6),
Radhapuram at Nanguneri,
Tirunelveli District.

... Respondent

Prayer: The petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the respondent in Na.Ka.No.A1/43/2019, dated 04.06.2019, and quash the same and consequently, direct the respondent to disburse the compensation amount for the land acquired in S.No.155/6A and S.No.155/6B at Illankulam Village, Nanguneri Taluk, Tirunelveli District to the petitioner through the power agent, within the time fixed by this Court.

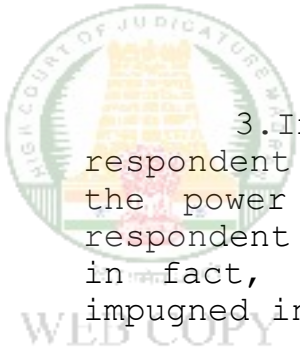
For Petitioner : Mr.H.Arumugam

For Respondents : Mr.M.Rajarajan, G.A.

O R D E R

The prayer in the Writ petition is for a Writ of Certiorarified Mandamus, to quash the impugned order of the respondent in Na.Ka.No.A1/43/2019, dated 04.06.2019, and consequently, direct the respondent to disburse the compensation amount for the land acquired in Survey Nos.155/6A and 155/6B at Illankulam Village, Nanguneri Taluk, Tirunelveli District to the petitioner through the power agent, within a time frame.

2.The learned counsel for the petitioner would submit that, the land of the petitioner has been acquired by the respondent for public purpose and before acquisition, power has been given to the power of attorney holder, who in fact representing the petitioner has filed this Writ petition, to negotiate with the authorities with regard to the creation of encumbrance in the subject land of the petitioner. Accordingly, when the acquisition proceedings was taken place, that issue had been dealt with only by the power of attorney holder. After having completed the acquisition proceedings, compensation has been determined and the same has to be paid to the land owner.



3. In order to receive the compensation to be paid by the respondent for the acquisition of the land of the petitioner, when the power of attorney holder of the petitioner approached the respondent to receive the same, it was refused and in this regard, in fact, a rejection order was passed on 04.06.2019, which is impugned in this Writ petition.

4. The learned counsel for the petitioner would submit that, the reason stated in the rejection is that, only the land owner would be entitled to receive the compensation amount and the power of attorney holder does not have any such right and since there is no scope for giving the compensation amount to the power of attorney holder of the land owner, he cannot receive the compensation on behalf of the land owner as a power of attorney, accordingly, the same was rejected.

5. In order appreciate the same, the content of the impugned order is extracted hereunder for easy reference -

“தாமிரவரணி கருமேனியாறு மற்றும் நம்பியாறு நதிகள் இணைப்புத்திட்டத்தின் கீழ் நான்குனேரி வட்டம் இலங்குளம் கிராமம் புல எண் 155/6A மற்றும் புல எண் 155/6B நிலங்கள் வெள்ள நீர்க்கால்வாய் தோண்டிய வகைக்கு நில எடுப்பு, சேம்த மேற்படி நிலங்களுக்கு பொது அதிகார முகவர் நிலையில் இழப்பீட்டுத் தொகை கேட்டுக் கொடுத்த மனு பரிசீலனை செய்யப்பட்டது. நில உரிமையாளருக்கு கொடுக்க வேண்டிய அரசு வழங்கும் இழப்பீட்டுத் தொகையினை பொது அதிகார முகவருக்கு வழங்க மார்க்கமில்லை என்ற விபரம் இதன் மூலம் தெரிவிக்கப்படுகிறது.”

6. The learned counsel appearing for the petitioner would submit that, the said stand taken by the respondent cannot stand in the legal scrutiny as the power of attorney holder is very much entitled to act upon on behalf of the principal since it is the general power of attorney and therefore, for getting the compensation, it cannot be said that the power of attorney holder does not have any power, therefore, the said reasoning given in impugned order, cannot be sustained. Accordingly, the said rejection order, which is impugned herein has to be quashed.

7. I have heard the learned Government Advocate appearing for the respondent, who by relying upon the counter affidavit filed by the respondent, has submitted that, the respondent has taken a stand that, there is no specific provision, enabling the respondent to disburse the compensation amount for the land acquired from the petitioner merely on the strength of the power of attorney.

8. Therefore, the learned Government Advocate would submit that if the owner of the property i.e., the petitioner himself directly comes and seeks the compensation amount to be disbursed, the same would be disbursed, in his name and it will be handed over directly to him and not to the power of attorney holder.

9. I have considered the said submissions made on either side and perused the materials placed before this Court.



10. In fact, when this case came up in the earlier occasion, this Court directed the respondent to specifically state as to the legal provision under which, it is prohibited that the compensation amount cannot be given to the power of attorney holder.

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11. In response to the same in the counter affidavit at paragraph No.3, the respondent has stated as follows -

"3. Further, I submitted that the compensation amount has disbursed only to the land owner but as a power agent the petitioner has no claim or right to get the compensation amount."

12. On perusal of the same, one can easily state that the respondent has not quoted any rule or regulation or government order to that effect and more over, this Court is of the view that, such a prohibition cannot be made by the government, prohibiting the power of attorney holder to receive the compensation amount payable to the land owner, who is the principal of the power of attorney holder.

13. The power of attorney is being given by the principal under the Power of Attorney Act and once a general power of attorney is given, that too a registered power, pursuant to which, what are all the things to be done as desired by the principal, the attorney is entitled to that and in this regard, if at all in respect of the subject land, the power has been already given to the power of attorney holder to deal with the property that includes getting compensation from the land acquisition authority for the acquisition of the subject land on which only the general power has been given.

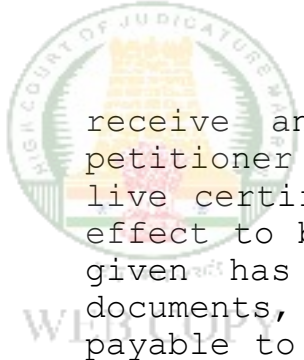
14. More over, in this case there is no objection from the principal ie., the land owner / petitioner for receiving the compensation at the hands of the power of attorney holder.

15. Still if at all the respondent has got any doubt over the subsisting nature of the power between the principal and attorney ie., the petitioner and the power of attorney holder, at the best, the respondent can insist upon the power of attorney holder to give a live certificate of the principal and at the most he can seek for a letter or an affidavit from the principal to state that, the power given to the power of attorney holder and registered as document No.12 of 2013 has not been so far revoked by principal and if these documents are produced by the power of attorney holder, this Court feels that there can be no further impediment for the respondent to disburse the compensation amount for land acquisition, to the power of attorney holders on behalf of the principal ie., the petitioner.

16. In that view of the matter, this Court is inclined to dispose of this Writ petition with the following order -

That the impugned order, for the reasons stated therein, is unsustainable and therefore, the same is quashed.

Consequently, there shall be a direction to the respondent to



receive and verify the original power document issued by the petitioner in favour of the power of attorney holder along with a live certificate of the petitioner as well as an affidavit to that effect to be sworn by the principal to state that the power already given has not been revoked so far and after receiving those documents, the respondent shall disburse the compensation amount payable to the petitioner being the land owner, for the acquisition and such amount shall be handed over to the power of attorney holders by way of instrument after getting proper acknowledgment and needful as indicated above, shall be undertaken by the respondent / Tahsildar, within a period of two weeks from the date of receipt of those documents referred to above from the power of attorney holder as well as the principal ie., the petitioner.

17. With these directions, this Write petition is ordered accordingly. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

To

The Special Tahsildar (Land Acquisition),
Interlinking of Rivers (Unit - 6),
Radhapuram at Nanguneri,
Tirunelveli District.

+1 CC to SPL GP (SR-74514[F] dated 10/07/2019)

+1 CC to Mr.H.ARUMUGAM, Advocate (SR-74350[F] dated 10/07/2019)

W.P. (MD) No.13912 of 2019

09.07.2019

nbj

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