



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2019

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE. ABDUL QUDDHOSE

W.P (MD) .No.13637 of 2017

P.Sundari : Petitioner

Vs.

- 1.The Secretary,
State Government of Tamil Nadu,
Secretariat, St.George Fort,
Chennai.
- 2.The Home Secretary,
Secretariat, St.George Fort,
Chennai.
- 3.The Secretary,
Energy Department,
Secretariat, St.George Fort,
Chennai.
- 4.The Chairman,
TANGEDCO,
Tamil Nadu Electricity Board,
144, Anna Salai, Chennai.
- 5.The Superintending Engineer,
TANGEDCO,
Tamil Nadu Electricity Board,
E.P.Main Road, Pasumalai,
Paikara, Madurai - 625 004.
- 6.The District Collector,
Tuticorin District, Tuticorin.
- 7.The Revenue Divisional Officer,
Tiruchendur, Tuticorin District.
- 8.The Tahsildar,
Tiruchendur Taluk,
Tuticorin District.
- 9.The Special Tahsildar (Land Acquisition),
Special Tahsildar Land Acquisition Office,
Udangudi Thermal Power Scheme.



10. The Executive Engineer,
Udangudi Thermal Power Plant,
Veerapandapattinam,
Tiruchendur, Tuticorin District.

: Respondents

WEB COPY

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorari and mandamus, to call for the records pertain to the proceedings passed by the 8th respondent in Aal-1998/2013 dated 09.04.2015 and quash the same as illegal and consequently direct the respondents to provide alternative land to the petitioner in lieu of proposed acquisition of the petitioner's land in Survey No.471/7B, 472A/2B for construction of residential quarter for the Staffs of proposed Udangudi Thermal Power Station and permit petitioner and her husband to continuously run the Palavewsam limestone powder manufacturing unit in its existing place.

For petitioner : Mr.T.Indrachithu

For R1 to R3 and
R6 to R9 : Mr.M.Rajarajan,
Government Advocate

For R4, R5 and R10 : Mr.SMS.Johnny Basha

ORDER

The instant Writ Petition has been filed challenging the order dated 09.04.2015 passed by the 8th respondent in Aal-1998/2013, rejecting the application submitted by the petitioner to provide alternate land in lieu of the lands belonging to the petitioner acquired by the 9th respondent under the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997.

2. It is the case of the petitioner that he is having a limestone powder manufacturing unit in his land at Survey No.471/7B, 4723/7B, at Udangudi Village, which is subject matter of land acquisition along with other lands totalling measuring 114.06.9 Hectares under the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997. According to the petitioner, she and her husband depend upon the source of income from the limestone powder manufacturing unit for their livelihood, but the respondents have acquired the lands for constructing a residential quarters for an upcoming Thermal Power Station. According to the petitioner, the denial of alternate land to the petitioner by the respondents under the impugned order dated 09.04.2015 is unconstitutional. However, it is her case that the respondents failed to note that the saplings of causarina trees totalling 2000 and coconut trees totalling 2,500 and other lemon plants have been fully grown in the petitioner's land, for which the petitioner had incurred huge sum of money by digging a well and installing drip irrigation in her land.



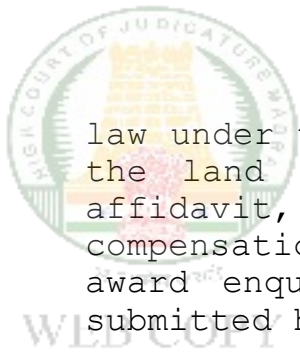
Aggrieved by the order dated 09.04.2015 passed by the 8th respondent rejecting the application submitted by the petitioner for alternate lands, the instant writ petition has been filed.

3.A counter affidavit has also been filed by the respondents, wherein they have stated that the 9th respondent has considered all the objections raised by the petitioner and only thereafter, has passed the impugned order. Further they have stated that under the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997, there is no provision for allotting alternate land in lieu of the lands acquired from the petitioner. Further while passing the impugned order rejecting the application seeking for alternate land, the 9th respondent has observed that the petitioner's husband is owning a land in survey No.508-1B measuring about 0.22.0 Acres and in that land, the petitioner can carry on her usual business. Further, they have stated that the petitioner failed to attend the award enquiry nor submitted her land records to the 9th respondent. According to the respondents, the land Acquisition Officer and District Revenue Officer, Tuticorin has passed the award proceedings No.3/14, dated 31.07.2014 for the acquisition of 33.16.5 Hectares of dry land in survey No.466-1A etc, at Udangudi Village and deposited the petitioner's land cost amount of Rs.5,74,126/- in the Civil Court under Section 9(2) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997. They have also stated that the amount awarded is only an interim compensation as determined based on the procedure already in vogue.

4.Regarding the causarina trees, the respondents have stated that the petitioner has already cut the trees in her land and repeatedly giving petition requesting to stop the land acquisition process. It is also their case that the lands belonging to the petitioner fall in the middle of the project and cannot be excluded from land acquisition. In the counter affidavit, they have made it very clear that the land acquisition process was completed only in accordance with the procedure mentioned in the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997. Further, the lands were acquired for Thermal Power Station, it will benefit nearly scores of people and therefore, the petitioner cannot question the land acquisition as the lands were acquired for public purpose.

5.Heard Mr.T.Indrachithu learned counsel for the petitioner, Mr.M.Rajarajan, learned Government Advocate and Mr.SMS.Johnny Bashes, learned for the respondents.

6.As rightly contended by the learned Standing Counsel for the respondents that under the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997, there is no provision for allotting an alternate land to persons, whose lands have been acquired under the said Act. Admittedly, in the instant case, the lands were acquired for public purpose namely for a Thermal Power Station. Even the application submitted by the petitioner for allotment of alternate land to the respondents does not disclose a provision of



law under which, he seeks allotment of an alternate land in lieu of the land acquired by the respondents. As seen from the counter affidavit, the award has already been passed quantifying the compensation payable to the land cost of acquired lands. Even in the award enquiry, the petitioner has neither attended the same nor submitted his lands records to the officer concerned.

7.The contention of the learned counsel for the petitioner is that the subject lands are agricultural lands and cannot be acquired is not acceptable in view of the fact that there is no such exemption available under the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997. As seen from the counter affidavit a sum of Rs.5,74,126/- has been deposited by the respondents before the Civil Court under Section 9(2) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 and now lying in the Court deposit. The land acquisition being made for a public purpose namely for a Thermal Power Station cannot be disturbed. The only remedy now available to the petitioner is to seek for enhancement of compensation for the lands acquired by the respondents. Already, a sum of Rs.5,74,126/- has been deposited by the respondents before the Civil Court, which the petitioner is entitled to obtain payment out of the same. In addition to that if the compensation is inadequate, the petitioner is always having the liberty to seek enhancement of the compensation amount before the appropriate forum in accordance with law.

8.For the forgoing reasons, this Court is of the considered view that there is no merit in this Writ Petition. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(AD-I)

/TRUE COPY/

Sub Assistant Registrar

To

1.The Secretary,
Tamil Nadu,
Secretariat, St.George Fort,
Chennai.

2.The Home Secretary,
Secretariat, St.George Fort,
Chennai.

3.The Secretary, Energy Department,
<https://hcservices.ecourts.gov.in/hcservices/>
Secretariat, St.George Fort,
Chennai.



4.The Chairman,
TANGEDCO,
Tamil Nadu Electricity Board,
144, Anna Salai, Chennai.

5.The Superintending Engineer,
TANGEDCO, Tamil Nadu Electricity Board,
E.P.Main Road, Pasumalai,
Paikara, Madurai - 625 004.

6.The District Collector,
Tuticorin District, Tuticorin.

7.The Revenue Divisional Officer,
Tiruchendur, Tuticorin District.

8.The Tahsildar, Tiruchendur Taluk,
Tuticorin District.

9.The Special Tahsildar (Land Acquisition),
Special Tahsildar Land Acquisition Office,
Udangudi Thermal Power Scheme.

10.The Executive Engineer,
Udangudi Thermal Power Plant,
Veerapandapattinam,
Tiruchendur, Tuticorin District.

+1. C.C. to M/S.SMS.Johnny Basha, Advocate SR.No.54850
+1 cc to Special Government Pleader, SR.No. 54629

W.P (MD) .No.13637 of 2017
15.03.2019

DAS
JM/04.04.2019/5P/13C