



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD)No.1348 of 2019

and

C.M.P. (MD)No.11334 of 2019

- 1.The Commissioner of Land Administration,
Ezhilagam, Chepauk,
Chennai.
- 2.The District Collector,
Tirunelveli District.
- 3.The Special Tahsildar (Land Acquisition),
River Linking Project, Unit III River Linking,
Palayamkottai,
Tirunelveli District. ... Appellants/Respondents

Vs.

Suvi Gnana Theepam

.. Respondent/Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of the Letter Patent Act, to set aside the order passed in W.P.(MD)No.24966 of 2018, dated 02.01.2019 and allow this writ appeal.

Prayer in WP(MD). 24966/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the Respondents herein to pay the compensation amount to the petitioner for the land acquired in Survey Number 718/4B situated at Tharuvai village, Palayamkottai taluk, within the time frame fixed by this Honourable court..

For Appellants	: Mr.K.Chellapandian Additional Advocate General assisted by Mr.M.Rajarajan Government Advocate
For Respondent	: Mrs.Porkodi Karnan

JUDGMENT

[Judgment of this Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.K.Chellapandian, learned Additional Advocate General
assisted by Mr.M.Rajarajan, learned Government Advocate for the



appellants and Mrs.Porkodi Karnan, learned counsel, who accepts notice on behalf of the respondent. By consent on either side, this writ appeal is taken up for final disposal.

2. The respondent / writ petitioner sought for an innocuous relief before the writ Court saying that though his land was acquired for a public purpose and the land was utilised for such purpose, compensation has not been paid.

3. The lands were taken over by the State in the year 2012 for river linking project in Tirunelveli District. It cannot be disputed by the appellants that the project has been implemented and the lands taken over from the respondent have been fully utilised. Unfortunately, the appellants ignored the land losers' plight and did not take any action to pay compensation. The respondent had been making representations requesting for payment of compensation and as there was no response to such representations, he had approached this Court and filed writ petition. The writ petition was filed on 17.12.2018 and has been disposed of by order dated 21.01.2019. We find that the appellants did not have sufficient time to file counter affidavit.

4. Be that as it may, the land of the respondent / writ petitioner have been acquired in the year 2012. It is unfair on the part of the appellants in not paying compensation and the appellants had taken a technical stand before the learned writ Court stating that there is a procedural difficulty on account of the coming into force of the Central Act 30 of 2013.

5. Though the right to property is not fundamental right, it is a statutory right and if the lands owned by the respondent are required for public purpose, it would be well open within the powers of the appellants to take over public domain and further exercising of such power can be only in accordance with the relevant statute. If there is any violation of the relevant statute, then the acquisition will become illegal. Fortunately for the appellants, the respondent / writ petitioner did not seek for reconveyance or quash the acquisition notification on the ground that it is devoid for non payment of compensation and all that the respondent / writ petitioner sought for is payment of compensation. It should have been paid by the appellants, without driving the respondent to the Court for such relief.

6. We are informed by the learned counsel on either side that one other writ petition in W.P.(MD)No.24766 of 2018 was allowed on the same lines as that of the impugned order before us by order dated 02.01.2019, and in the said case the appellants have filed review application before the learned writ Court, which has been disposed of on 11.11.2019 by granting one year time to the appellants to complete the entire process and pay the compensation to the respondent / writ petitioner therein.



7. We find that the case before us is not different from the case of the petitioner in W.P.(MD)No.24766 of 2018. The direction issued by the learned writ Court, which is impugned before us, does not suffer from any error warranting interference at our hands. However, considering the fact that in an identical circumstances, the writ Court by order dated 11.11.2019 granted one year time to pay compensation, we are inclined to grant similar indulgence in this appeal also.

8. Accordingly, while dismissing this appeal and confirming the order passed by the learned writ Court, we grant the appellants one year time from 16.08.2019 as sought by the appellants in the memorandum of grounds in paragraph No.18 to pay the compensation. The compensation shall be computed and paid within the said period without default. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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+1 CC to M/s.POLAX LEGAL SOLUTIONS, Advocate (SR-101819[F] dated 27/11/2019)

+1 CC to M/s.SPL GP (SR-102417[F] dated 28/11/2019)

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