

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. Nos. 209, 213, 216, 218, 220 and 221 of 2020

W.P. No. 209 of 2020:

Pankajam

... Petitioner

Vs.

- 1.The State of Tamil Nadu  
Rep. by its Secretary to Government,  
Public Works Department,  
Secretariat, Chennai - 600 009.
- 2.The Commissioner of Land Administration,  
Ezhilagam, Chepauk, Chennai - 600 005.
- 3.The District Collector,  
Thiruvallur District,  
Thiruvallur.
- 4.The District Revenue Officer,  
Thiruvallur District, Thiruvallur.
- 5.The Special Tahsildar (Land Acquisition) Unit - II,  
Kannankottai - Thervoykandigai Reservoir Scheme,  
Gummidipoondi Taluk @ Kavarapettai,  
Thiruvallur District. ... Respondents

Petition filed under Article 226 of the Constitution of India, for issue of Writ of Mandamus, directing the Respondents herein to pay the compensation for the acquired lands belonging to the Petitioner comprised in Survey No.160/14 measuring an extent of 0.20.0 Hectares situated at Village No. 26, Kannankottai Village, Gummidipoondi Taluk, Thiruvallur District in terms of provisions of Central Land Acquisition Act 30 of 2013 as given to similarly situated persons pursuant to Order in W.A. No. 1666 of 2018 order dated 14.12.2018 of this Court within the time frame.

For Petitioner : Mr. N. Nithianandam

For Respondents : Mr. D. Raja  
Additional Government Pleader  
(for R1 to R5)

W.P. No. 213 of 2020:

Murugesan

Vs.

... Petitioner

- 1.The State of Tamil Nadu  
Rep. by its Secretary to Government,  
Public Works Department,  
Secretariat, Chennai - 600 009.
- 2.The Commissioner of Land Administration,  
Ezhilagam, Chepauk, Chennai - 600 005.
- 3.The District Collector,  
Thiruvallur District,  
Thiruvallur.
- 4.The District Revenue Officer,  
Thiruvallur District, Thiruvallur.
- 5.The Special Tahsildar (Land Acquisition) Unit - II,  
Kannankottai - Thervoykandigai Reservoir Scheme,  
Gummidipoondi Taluk @ Kavarapettai,  
Thiruvallur District. ... Respondents

Petition filed under Article 226 of the Constitution of India, for issue of Writ of Mandamus, directing the Respondents herein to pay the compensation for the acquired lands belonging to the Petitioner comprised in Survey Nos. 317/1 - 0.12.0 Hectares situated at Village No. 26, Kannankottai Village, Gummidipoondi Taluk, Thiruvallur District in terms of provisions of Central Land Acquisition Act 30 of 2013 as given to similarly situated persons pursuant to Order in W.A. No. 1666 of 2018 dated 14.12.2018 of this Court within the time frame.

For Petitioner : Mr. N. Nithianandam

For Respondents : Mr. D. Raja  
Additional Government Pleader  
(for R1 to R5)

W.P. No. 216 of 2020:

Neela

Vs.

... Petitioner

- 1.The State of Tamil Nadu  
Rep. by its Secretary to Government,  
Public Works Department,  
Secretariat, Chennai - 600 009.

2.The Commissioner of Land Administration,  
Ezhilagam, Chepauk, Chennai - 600 005.

3.The District Collector,  
Thiruvallur District,  
Thiruvallur.

4.The District Revenue Officer,  
Thiruvallur District, Thiruvallur.

5.The Special Tahsildar (Land Acquisition) Unit - II,  
Kannankottai - Thervoykandigai Reservoir Scheme,  
Gummidipoondi Taluk @ Kavarapettai,  
Thiruvallur District.

... Respondents

Petition filed under Article 226 of the Constitution of India, for issue of Writ of Mandamus, directing the Respondents herein to pay the compensation for the acquired lands belonging to the Petitioner comprised in Survey Nos. 160/5 - 0.08.5, 160/15 - 0.02.5, 160/17 - 0.11.0 and 160/18 - 0.20.0 Hectares measuring total extent of 0.42.0 Hectares situated at Village No. 26, Kannankottai Village, Gummidipoondi Taluk, Thiruvallur District in terms of provisions of Central Land Acquisition Act 30 of 2013 as given to similarly situated persons pursuant to Order in W.A. No. 1666 of 2018 order dated 14.12.2018 of this Court within the time frame.

For Petitioner : Mr. N. Nithianandam

For Respondents : Mr. D. Raja  
Additional Government Pleader  
(for R1 to R5)

W.P. No. 218 of 2020:

Revathy

सत्यमेव जयते

...

Petitioner

Vs.

1.The State of Tamil Nadu  
Rep. by its Secretary to Government,  
Public Works Department,  
Secretariat, Chennai - 600 009.

2.The Commissioner of Land Administration,  
Ezhilagam, Chepauk, Chennai - 600 005.

3.The District Collector,  
Thiruvallur District,  
Thiruvallur.

4.The District Revenue Officer,  
Thiruvallur District, Thiruvallur.

5.The Special Tahsildar (Land Acquisition) Unit - II,  
Kannankottai - Thervoykandigai Reservoir Scheme,  
Gummidipoondi Taluk @ Kavarapettai,  
Thiruvallur District.

... Respondents

Petition filed under Article 226 of the Constitution of India, for issue of Writ of Mandamus, directing the Respondents herein to pay the compensation for the acquired lands belonging to the Petitioner comprised in Survey No.160/16 measuring an extent of 0.09.5 Hectares situated at Village No. 26, Kannankottai Village, Gummidipoondi Taluk, Thiruvallur District in terms of provisions of Central Land Acquisition Act 30 of 2013 as given to similarly situated persons pursuant to Order in W.A. No. 1666 of 2018 order dated 14.12.2018 of this Court within the time frame.

For Petitioner : Mr. N. Nithianandam

For Respondents : Mr. D. Raja  
Additional Government Pleader  
(for R1 to R5)

W.P. No. 220 of 2020:

Lakshmi

... Petitioner

Vs.

1.The State of Tamil Nadu  
Rep. by its Secretary to Government,  
Public Works Department,  
Secretariat, Chennai - 600 009.

2.The Commissioner of Land Administration,  
Ezhilagam, Chepauk, Chennai - 600 005.

3.The District Collector,  
Thiruvallur District,  
Thiruvallur.

4.The District Revenue Officer,  
Thiruvallur District, Thiruvallur.

5.The Special Tahsildar (Land Acquisition) Unit - II,  
Kannankottai - Thervoykandigai Reservoir Scheme,  
Gummidipoondi Taluk @ Kavarapettai,  
Thiruvallur District.

... Respondents

Petition filed under Article 226 of the Constitution of India, for issue of Writ of Mandamus, directing the Respondents herein to pay the compensation for the acquired lands belonging to the Petitioner comprised in Survey No.160/13 measuring an extent of 0.25.0 Hectares situated at Village No. 26, Kannankottai Village, Gummidipoondi Taluk, Thiruvallur District in terms of provisions of Central Land Acquisition Act 30 of 2013 as given to similarly situated persons pursuant to Order in W.A. No. 1666 of 2018 order dated 14.12.2018 of this Court within the time frame.

For Petitioner : Mr. N. Nithianandam

For Respondents : Mr. D. Raja  
Additional Government Pleader  
(for R1 to R5)

W.P. No. 221 of 2020:

Vijaya ..... Petitioner

Vs.

- 1.The State of Tamil Nadu  
Rep. by its Secretary to Government,  
Public Works Department,  
Secretariat, Chennai - 600 009.
- 2.The Commissioner of Land Administration,  
Ezhilagam, Chepauk, Chennai - 600 005.
- 3.The District Collector,  
Thiruvallur District,  
Thiruvallur.
- 4.The District Revenue Officer,  
Thiruvallur District, Thiruvallur.
- 5.The Special Tahsildar (Land Acquisition) Unit - II,  
Kannankottai - Thervoykandigai Reservoir Scheme,  
Gummidipoondi Taluk @ Kavarapettai,  
Thiruvallur District. .... Respondents

Petition filed under Article 226 of the Constitution of India, for issue of Writ of Mandamus, directing the Respondents herein to pay the compensation for the acquired lands belonging to the Petitioner comprised in Survey No.322/5 measuring an extent of 0.11.0 Hectares situated at Village No. 26, Kannankottai Village, Gummidipoondi Taluk, Thiruvallur District in terms of provisions of Central Land Acquisition Act 30 of 2013 as given to similarly situated persons pursuant to Order in W.A. No. 1666 of 2018 order dated 14.12.2018 of this Court within the time frame.

For Petitioner : Mr. N. Nithianandam

For Respondents : Mr. D. Raja  
Additional Government Pleader  
(for R1 to R5)

C O M M O N O R D E R

Heard Mr. N. Nithianandam, Learned Counsel for the Petitioners in all Writ Petitions and Mr. D. Raja, Learned Additional Government Pleader for the Respondents in all Writ Petitions and perused the materials placed on record, apart from the pleadings of the parties.

2.The petitioners had been assigned lands in Kannankottai Village in Gummidipoondi Taluk of Thiruvallur District free of cost pursuant to the orders issued by the Government of Tamil Nadu in G.O.Ms.No.555, Revenue Department, dated 26.08.2006. The individual particulars of each of the petitioners in the D-Form patta issued to them is set out in following tabular statement:-

| Sl. No. | W.P. No.             | Name of the Petitioner | Proceedings of Tahsildar, Gummidipoondi | Survey No.                          | Extent in Hectares                   |
|---------|----------------------|------------------------|-----------------------------------------|-------------------------------------|--------------------------------------|
| 1.      | W.P. No. 209 of 2020 | Pankajam               | Rc.No.6546/2006/B1<br>Dated 05.09.2006  | 160/14                              | 0.20.0                               |
| 2.      | W.P. No. 213 of 2020 | Murugesan              | Rc.No.6549/2006/B1<br>Dated 11.09.2006  | 317/1                               | 0.12.0                               |
| 3.      | W.P. No. 216 of 2020 | Neela                  | Rc.No.6677/2006/B1<br>Dated 05.09.2006  | 160/5<br>160/15<br>160/17<br>160/18 | 0.08.5<br>0.02.5<br>0.11.0<br>0.20.0 |
| 4.      | W.P.No. 218 of 2020  | Revathi                | Rc.No.6647/2006/B1<br>Dated 05.09.2006  | 160/16                              | 0.09.5                               |
| 5.      | W.P.No. 220 of 2020  | Lakshmi                | Rc.No.6546/2006/B1<br>Dated 05.09.2006  | 160/13                              | 0.25.0                               |
| 6.      | W.P.No. 221 of 2020  | Vijaya                 | Rc.No.6549/2006/B1<br>Dated 11.09.2006  | 322/5                               | 0.11.0                               |

It is relevant to notice here that condition No.6 in the aforesaid proceedings of the Tahsildar, Gummidipoondi provides that if the assigned land is resumed for public purpose by the Government, no compensation would be paid to that assignee for such acquisition of land.

3. The aforesaid lands assigned to the petitioners, were acquired for the formation of new reservoir near Kannankottai-Thervoykandigai under the provisions of the Land Acquisition Act, 1894, by notification dated 15.07.2013 and 20.08.2013 issued under Sections 4(1) and 6 of that Act. On the repeal of that enactment with effect from 01.01.2014, the land acquisition proceedings continued under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. However, the respondents, referring to the aforesaid condition No.6 in the proceedings for assignment issued to the petitioners, mentioned supra, have denied the entitlement of the petitioners to receive compensation for the lands acquired from them. Aggrieved thereby, the petitioners have filed these writ petitions seeking payment of compensation for the lands acquired from them.

4. It is brought to the notice of this Court by the Learned Counsel for the Petitioners that in respect of persons who are similarly placed to the Petitioners in respect of the same acquisition, the Division Bench of this Court after elaborately considering the same contentions raised by the Respondents has, by order dated 14.12.2018 in W.A. No. 1666 of 2018, held as follows:-

"10. We have carefully considered the submissions of the learned Counsel for the parties and perused the materials available on record.

11. The main contention of the appellants is that the respondents/writ petitioners are the beneficiaries of 2 acres of waste land to landless/poor agricultural families as per G.O.Ms.No.396, dated 23.06.2006 and the assignments were also made under Revenue Standing Order 15. According to the learned Additional Advocate General appearing for the appellants, as per clause 4, the lands assigned could not be alienated for a period of 30 years and thereafter, the same could be done only with the prior written permission of the Tahsildar or the Revenue Divisional Officer concerned. As per clause 6, the appellants are having the right to resume the lands and when that being the position, since the appellants have invoked the provisions of the 1894 Act, it would not amount to recognising the ownership of the assignees and therefore, they are not entitled for any compensation.

12. Whereas it is the submission of the learned Counsel for the respondents/writ petitioners that once the appellants have chosen to invoke the provisions of the 1894 Act to initiate the land acquisition proceedings, then, they cannot deny the compensation to the respondents/writ petitioners.

13. Before considering these submissions, it would be appropriate to extract hereunder certain provisions

of the 2013 Act:

Section 3(r) (iii):

"3(r). "land owner" includes any person:

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(iii) who is entitled to be granted Patta rights on the land under any law of the State including assigned lands;"

Therefore, any condition imposed with the assignment by the appellants have extinguished automatically and the said Section mandates that the assignees of the said lands are to be treated as absolute owners of the said assigned lands and they are entitled for full compensation as payable to other land owners.

Section 3(c) (v):

"3(c). "affected family" includes:

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(v) a member of the family who has been assigned land by the State Government or the Central Government under any of its schemes and such land is under acquisition;"

By virtue of Section 3(c) (v) of the 2013 Act, the assignees who are treated to be the affected family, are entitled for all the benefits under the provisions of the 2013 Act. Therefore, when the Government initiate proceedings for compulsory acquisitions under the provisions of the 1894 Act, treating such lands as not belonging to itself, but to others, it is under an obligation to pay compensation as provided in the applicable Land Acquisition Act. Moreover, it is trite law that the Government cannot acquire its own land and the Government was not competent in the proceedings under the Land Acquisition Act to put forward its own title for the properties sought to be acquired, denying compensation to the persons entitled to, having issued notifications/awards specifying the lands and the names of the owners/occupiers/persons interested.

14. In this regard, it is appropriate to refer to the judgment of the Honourable Supreme Court in The Special Land Acquisition and Rehabilitation Officer, Sagar v. M.S.Seshagiri Rao and another reported in AIR 1968 Supreme Court 1045 and paragraphs 5 to 8 read as under:

"5. We are unable to agree with the High Court of Madras that when land is notified for acquisition, and in the land the State has an interest, or the ownership of the land is subject to a restrictive covenant in favour of the State, the State is estopped from setting up its interest or right in the proceedings for acquisition. The State in a proceeding

for acquisition does not acquire its own interest in the land, and the Collector offers and the Civil Court assesses compensation for acquisition of the interest of the private persons which gets extinguished by compulsory acquisition and pays compensation equivalent to the market value of that interest. There is nothing in the Act which prevents the State from claiming in the proceeding for acquisition of land notified for acquisition that the interest proposed to be acquired is a restricted interest.

6. We agree with the observations made by Batchelor, J., in *Govt., of Bombay v. Usufali Salebhai*, (1910) ILR 84 Bom 618 at p. 636:

"The procedure laid down in the Act is so laid down as being appropriate to the special case which is considered in the Act, i.e., the case where the complete interests are owned privately. But that special case is, as I understand it, singled out by the legislature as the norm or type with the intent that in other cases which only partially conform to the type the procedure should be followed in so far as it is appropriate, nor that such cases should be excluded from the Act because they do not wholly conform to the type. In other words, Government \*\*\* are not debarred from acquiring and paying for the only outstanding interest, merely because the Act, which primarily contemplates all interests as held outside Government, directs that the entire compensation based upon the market value of the whole land, must be distributed among the claimants. In such circumstances, as it appears to me, there is no insuperable objection to adapting the procedure to the case on the footing that the outstanding interests, which are the only things to be acquired, are the only things to be paid for." The principle of *Usufali Salebhai's* case, (1910) ILR 34 Bom 618 was, it may be observed, approved by this Court in *Collector of Bombay v. Nusserwanji Rattanji Mistri* 1955 SCR 1311 : (AIR 1955 SC 298).

7. But the view expressed by the District Court that the grantees are not entitled to any compensation for the land cannot be sustained. The District Court was bound to determine the market value, at the date of the notification under S.4 of the Land Acquisition Act of the interest of the grantees in the land.

8. The order passed by the High Court is maintained subject to the modification that the market value of the interest of the grantees in the land (of the nature herein before mentioned) at the date of the notification under S.4 of the Land Acquisition Act shall be determined and paid to the grantees in addition to the compensation paid for the improvement in the land. There will be no order as to costs in this appeal."

15. Therefore, from the reading of the above judgment, it is clear that once the provisions of the 1894 Act are invoked and proceeded with waiving their rights over the lands, the appellants cannot legally and factually deny compensation for the acquired lands of the respondents/writ petitioners. Further, the Land Acquisition Officer having issued notices under Sections 4(1), 9(3) and 10 and passed awards under Sections 11 and 12(2) of the Act, in the name of the respondents/writ petitioners treating the lands in question as that of the respondents/writ petitioners, is estopped from denying the interim compensation or compensation for the lands by the impugned proceedings.

16. Thus, we do not find any infirmity or illegality in the order passed by the learned Single Judge and accordingly, this writ appeal fails and the same is dismissed, confirming the order dated 09.01.2018 passed in W.P.No.33736 of 2016. No costs. Consequently, the connected civil miscellaneous petition is also dismissed."

In the aforesaid circumstances, the Petitioners in these Writ Petitions are entitled to be extended to the same benefit granted in the order dated 09.01.2018 in W.P. No. 33736 of 2016, which has been confirmed in appeal i.e., order dated 14.12.2018 in W.A. No. 1666 of 2018 passed by the Division Bench of this Court.

5. Accordingly, the Writ Petitions are ordered on the aforesaid terms. No Costs.

Sd/-  
Assistant Registrar(CS-III)

//True copy//

सत्यमेव जयते  
Sub Assistant Registrar

dm/rmk/sj

To

1.Secretary to Government,  
State of Tamil Nadu  
Public Works Department,  
Secretariat, Chennai - 600 009.

2.The Commissioner of Land Administration,  
Ezhilagam, Chepauk, Chennai - 600 005.

3.The District Collector,  
Thiruvallur District,  
Thiruvallur.

<https://hcservices.ecourts.gov.in/hcservices/>

4.The District Revenue Officer,  
Thiruvallur District, Thiruvallur.

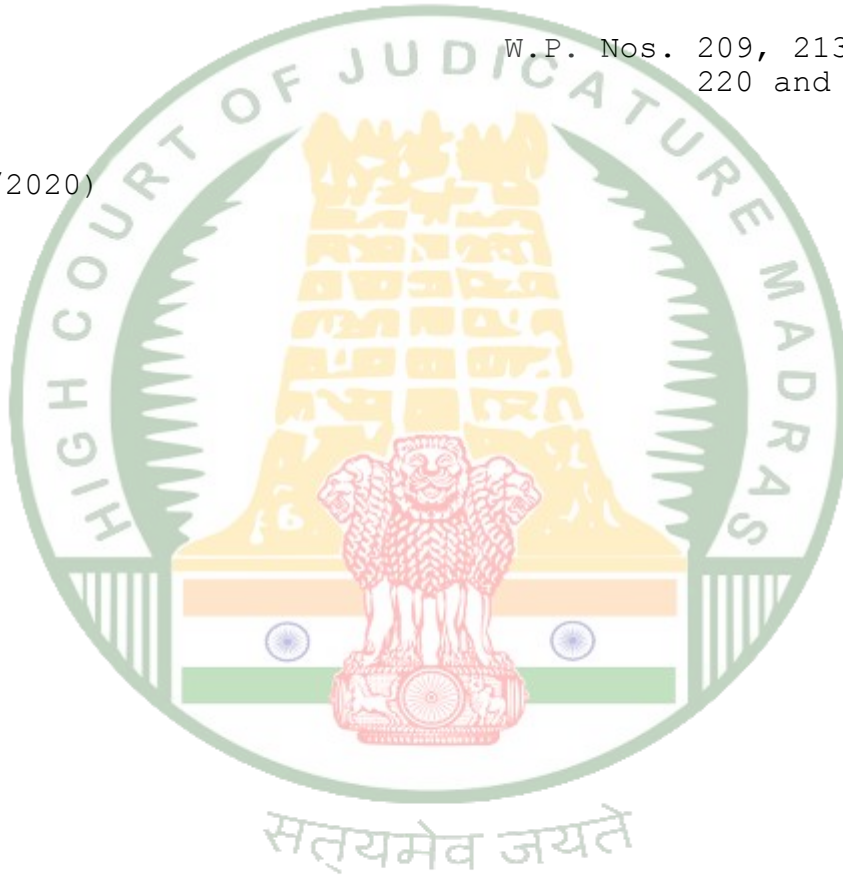
5.The Special Tahsildar (Land Acquisition) Unit - II,  
Kannankottai - Thervoykandigai Reservoir Scheme,  
Gummidipoondi Taluk @ Kavarapettai,  
Thiruvallur District.

+1cc to Mr.N. Nithianandam, Advocate SR.No.15864

+1cc to Government Pleader SR.No.16697

W.P. Nos. 209, 213, 216, 218,  
220 and 221 of 2020

AK(CO)  
GMY(12/06/2020)



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