

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.06.2020

CORAM

THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM

Writ Petition No.28093 of 2012
(Heard through Video Conferencing)

1.S.Aslam Basha

2.S.Mohamed Ziyaulla Sheriff ... Petitioners

Vs.

1.The District Collector,
Thiruvannamalai,
Thiruvannamalai District.

2.The Chief Administrative Officer,
Construction Division,
Southern Railway,
Egmore,
Chennai - 600 008.

3.The Tahsildar,
Office of the Tahsildar,
Polur 606 803,
Thiruvannamalai District. ... Respondents

Writ Petition filed under Article 226 of Constitution of India, for issuance of writ of Certiorarified Mandamus calling for the order of the third respondent in Na.Ka.B1/11512/2008 dated 11.07.2012 and quash the same consequently direct the respondents 1 and 3 to refix the value of the petitioners' acquired land in Survey Nos.868/1, 868/2, 869/1A, 869/2, 847A/5A situated in Polur Town of Thiruvannamalai District at the rate of Rs.363/- per sq.ft and pass such further or other order as this Court may deem fit.

For Petitioners	:	Mr.S.Gunaseelan
For Respondents 1 & 3	:	Mr.M.Elumalai, Government Advocate
For 2 nd Respondent	:	Mr.B.T.Ramkumar

ORDER

Heard Mr.S.Gunaseelan, learned counsel for the petitioners; Mr.M.Elumalai, learned Government Advocate appearing for the respondents 1 and 3 and Mr.B.T.Ramkumar, learned counsel for the second respondent.

2.The petitioners seek for issuance of writ of Certiorarified Mandamus to quash the order passed by the third respondent in Na.Ka.B1/11512/2008 dated 11.07.2012 and consequently direct the respondents 1 and 3 to refix the value of the petitioners' acquired land in Survey Nos.868/1, 868/2, 869/1A, 869/2, 847A/5A situated in Polur Town of Thiruvannamalai District at the rate of Rs.363/- per sq.ft.

3.The impugned order has been passed by the Tahsildar, Polur, Thiruvannamalai District, rejecting the petitioners' request stating that the value of the property fixed at Rs.120/- per sq.ft is the proper value.

4.It is not in dispute that the lands were acquired by private negotiation and utilised for the project in question namely, for conversion of railway line from metre gauge to broad gauge from Katpadi to Villupuram. 73 cents of lands owned by the petitioners were acquired for the said purpose and the lands were utilised by the respondents in the year 2009.

5.The petitioners would state that they were compelled to receive compensation @ Rs.120/- per sq.ft whereas, the value of the land situated in that area was Rs.362/- per sq.ft. The petitioners sent several representations for re-fixing the value of the lands in question. The same were not considered and therefore, the petitioners have filed a writ petition in W.P.No.11920 of 2012 before this Court to re-fix the value of the land. The said writ petition was disposed of by order dated 27.04.2012 directing the Tahsildar, Polur, Thiruvannamalai District, to consider the representation of the petitioner dated 04.01.2012.

6.The Tahsildar, Polur, Thiruvannamalai District has taken a decision in the matter and rejected the representation of the petitioners by the impugned order. Hence, the petitioners are before this Court with the present writ petition.

7.In my considered view, the acquisition by private negotiation would be done by a Committee headed by the District Collector. In the present writ petition, the petitioners would state that they were compelled to receive compensation @ Rs.120/- per sq.ft. This being a disputed question of fact,

cannot be agitated in the writ petition. Nevertheless, the adequacy or inadequacy of compensation has to be decided by the District Collector who heads the Committee which has been formed by the Government of Tamil Nadu for acquiring the land by private negotiation. Therefore, even assuming that the Tahsildar, Polur, Thiruvannamalai District was directed to consider the representation of the petitioner for re-fixation of the value of the land, the Tahsildar concerned should have submitted a report to the District Collector and the District Collector concerned alone should have taken a decision in the matter. Therefore, at best, the impugned proceeding can be construed to be a report of the Tahsildar and nothing more. In any event, the Tahsildar has rejected the petitioners' claim and the Court has found that such action is without jurisdiction. Hence, the Court is inclined to interfere with the impugned order.

8. Accordingly, the writ petition is allowed and the impugned order is set aside and the District Collector, Thiruvannamalai District is directed to consider the petitioners' request /representation for re-fixing the value of the land @ Rs.363/- per sq.ft and after considering the petitioners' representation, fresh orders be passed by the first respondent/District Collector, within a period of four months from the date of receipt of a fresh representation to be submitted by the petitioners. In order to effectively comply with the direction of this Court, the petitioners are directed to submit a fresh representation along with the copy of this order and along with the copy of the earlier representation to the District Collector, Thiruvannamalai, forthwith. No costs.

Sd/-

Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

jbm

To

1. The District Collector,
Thiruvannamalai,
Thiruvannamalai District.

2. The Chief Administrative Officer,
Construction Division,
Southern Railway,
Egmore, Chennai - 600 008.

3.The Tahsildar,
Office of the Tahsildar,
Polur 606 803,
Thiruvannamalai District.

W.P.No.28093 of 2012

RLD (CO)
GMY (28/07/2020)



WEB COPY