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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.06.2020

CORAM

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

Writ Petition No.6596 of 2012 and
M.P.No.1 of 2012
(Heard through Video Conferencing)

R.Jayaraj ... Petitioner

Vs.

1.The Principal Secretary &
Commissioner of Land Administration,
Chepauk,
Chennai - 5.

2.The District Collector,
Coimbatore District,
Coimbatore.

3.The Tahsildar,
Pollachi Taluk,
Coimbatore District.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, for issuance of writ of certiorarified mandamus, calling for the records from the file of the first respondent made in reference No.F3/15011/2011 dated 27.02.2012 and quash the same and further direct the respondents to issue patta in favour of the petitioner for his land in S.F.No.80/1 of Konde Goundenpalayam Village, Negamam (via), Pollachi Taluk, Coimbatore to an extent of 0.88.0 hectares.

For Petitioner : Mr.B.Gopalakrishnan for
M/s.S.Gunalan

For Respondents : Ms.A.Madhumathi,
Special Government Pleader

ORDER

Heard Mr.B.Gopalakrishnan, learned counsel for the petitioner and Ms.A.Madhumathi, learned Special Government Pleader appearing for the respondents.



2.The petitioner has filed this writ petition to quash the order of the first respondent made in reference No.F3/15011/2011 dated 27.02.2012 and to direct the respondents to issue patta in favour of the petitioner for his land in S.F.No.80/1 of Konde Goundenpalayam Village, Negamam (via), Pollachi Taluk, Coimbatore to an extent of 0.88.0 hectares.

3.The lands in question were acquired under the Land Acquisition Act, 1894 for the public purpose by the Public Works Department (hereinafter referred to as "the PWD") for formation of PAP water channel and its embankment under the Parambikulam - Aliyar Irrigation Project Scheme. The acquisition is stated to have been completed during the year 1974.

4.According to the counter affidavit filed by the third respondent, the acquired land was used for strengthening the embankment by removing some depth of soil from it and after the scheme was completed, the land was not used by the PWD and it was kept barren land. This fact was admitted by the Tahsildar, Pollachi Taluk, in the counter affidavit.

5.The petitioner submitted a representation to the respondents to hand over the land back to him on payment of the land cost. This representation was forwarded by the Tahsildar to the Chief Engineer, PWD, Pollachi and sought his opinion who in turn, by his letter dated 31.01.2000 categorically stated that the land is no longer required for the PWD. Based on such information and pursuant to the directions issued by the District Collector, Coimbatore District, vide his proceeding dated 17.07.2002, the petitioner has remitted a sum of Rs.85,205/- towards the land cost and subsequently, the petitioner was directed to pay a sum of Rs.10,225/- towards the interest on the value of the land already fixed which was also remitted by the petitioner on 07.05.2004. The District Collector, Coimbatore forwarded the proposal to the first respondent for assignment of the land to the petitioner vide his proceedings dated 28.02.2006 by referring to the provisions of the Revenue Standing Orders (hereinafter referred to as "the RSO") more particularly RSO No.15, which deals with assignment of Government poramboke land for temporary agricultural purpose. The first respondent by the impugned order has rejected the same on the ground that the land cannot be assigned under RSO No.15 because, the land was acquired under the Land Acquisition Act, a Central Act. Challenging the said order, the petitioner is before this Court, with this writ petition.



6. The first respondent is right in coming to the conclusion that the provisions of the RSO cannot be invoked nevertheless, if the land has not been put to use ever since 1974, and categorically certified by the PWD that the land is not required then, it is the case where the petitioner would be at liberty to seek for exclusion of the land from acquisition or for re-conveyance. As per the stand taken in the counter affidavit filed by the third respondent, it is seen that the land is stated to have been acquired for strengthening the embankment by removing some depth of soil from the land in question. So, understanding of this Court is that, the acquisition was not strictly for the purpose of forming the irrigation channel or system but for removing soil to strengthen the embankment. Therefore, if the purpose has been served, if the PWD does not require the land which has been stated by them on 31.01.2000, this Court is of the view that, this is the fit case where the petitioner should be permitted to make a representation to the respondents to exclude the lands from the acquisition proceedings or in the alternative, seek for re-conveyance.

7. As discussed above, the provisions of the RSO may not apply to the instant case because, the lands were acquired under the Land Acquisition Act. Therefore, the proposal which emanated from the District Collector itself would be without jurisdiction. Nevertheless, since, the PWD does not require the land as certified by them in the year 2000, but possession of the land by the respondents continued even as on date. This Court deems it fit to give liberty to the petitioner to seek for the exclusion of the lands from the acquisition proceeding or in the alternative, to seek for re-conveyance. However, there may be a technical difficulty in considering such a request on account of the impugned order. Therefore, this Court is inclined to interfere with the impugned order and to set aside the same and simultaneously grant liberty to the petitioner on the aforementioned terms.

8. For the above reasons, the writ petition is allowed and the impugned order is set aside and the petitioner is granted liberty to seek for exclusion of the lands from the acquisition proceeding or in the alternative, seek for re-conveyance of the lands in question and submit a representation in this regard to the District Collector, Coimbatore District forthwith, enclosing all the relevant documents as annexures. The District Collector shall consider the said representation and forward the proposal to the concerned Department of the Government of Tamil Nadu for consideration. The District Collector is directed to take appropriate action in this regard within a period of four months



from the date on which the representation is given by the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

jbm

To

1.The Principal Secretary &
Commissioner of Land Administration,
Chepauk,
Chennai - 5.

2.The District Collector,
Coimbatore District,
Coimbatore.

3.The Tahsildar,
Pollachi Taluk,
Coimbatore District.

+1cc to Government Pleader SR.No.8565

W.P.No.6596 of 2012

RK(CO)
GMY(14/07/2020)