In the High Court of Judicature at Madras
Dated : 28.1.2020
Coram :
The Honourable Mr.Justice T.S.SIVAGNANAM
Writ Petition No.23368 of 2016 & WMP.Nos.20044 & 20102 of 2016

R.Shanmugavel ...Petitioner

Vs

1.The District Collector, Thoothukudi
District.

2.The Special Tahsildar, Land
Acquisition (Thermal Power Project),
Tiruchendur Taluk, Udankudi Post,
Thoothukudi-628203.

3.Mr.Isakimuthu ...Respondents

PETITION under Article 226 of the Constitution of India praying for the issuance of a Writ of mandamus directing the first respondent to expunge/ delete the name of the third respondent erroneously entered in patta No.821 with reference to lands in S.No.472a/2A to an extent of 0.35.50 hectares and in S.No.471/7A to an extent of 0.27 hectare and make necessary changes in the FMB sketch and consequently direct the 3rd respondent to pass orders on merits on the request of the petitioner for deletion of the lands of 0.35.5 hectare in S.No.472a/2A for the petitioner's own use for livelihood from the land acquisition proceedings within a time frame as may be fixed by this Court.

For Petitioner : Mr.Silambanan, SC for
M/s.Kaavya Silambanan Associates
For Respondents 1 & 2 : Mr.M.D.Ilayaraja, GA

ORDER

Heard Mr.Silambanan, learned Senior Counsel appearing on behalf of the petitioner and Mr.M.D.Ilayaraja, learned Government Advocate appearing for respondents 1 and 2.

2. Originally, the petitioner sought a direction to the Additional Director, Director of Survey and Land Records, Survey House, Chepauk, Chennai-5, who was arrayed as the first respondent initially in this writ petition, to expunge/delete the name of the original fourth respondent namely Mr.Isakimuthu, who has been shown as a joint pattadhar along with the petitioner in respect of the land in question namely S.No.472a/2A to an extent of 0.35.50 hectares and in S.No.471/7A

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to an extent of 0.27 hectare and consequently make necessary changes in the FMB sketch. Subsequently, the inclusion of the Additional Director, Director of Survey and Land Records, Survey House, Chepauk, Chennai-5 stood deleted by this Court from the cause title vide order dated 03.1.2020 in WMP.No.40309 of 2018 and the parties were recasted.

3. The case of the petitioner is that the name of the third respondent herein has been erroneously included in the patta. Therefore, the petitioner would contend that his name has to be removed.

4. Before going into the merits of the contentions raised before this Court by the petitioner, it needs to be pointed out that the lands in question were acquired for the Udankudi 2 X 660 MW Thermal Power Plant. The acquisition was made under the provisions of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (for brevity, the Act).

5. It is stated by the second respondent in the counter affidavit that the first respondent passed an award dated 31.7.2014 in award No.3 of 2014 and necessary compensation was paid to the pattadhars. It is further stated that in respect of the land owners, who had not produced the death certificate of the pattadhar and the relevant legal heirship certificate, the compensation was directed to be deposited into court as per Section 9(2) of the Act. It is also stated that in the Udankudi village records, the land stands in the name of the petitioner's father namely Mr.Rajamani Nadar in patta No. 821 and in the name of one Mrs.Sundari, W/O Mr.Pattani in patta No.2072. It is again stated that the petitioner is the elder son of the said Mr.Rajamani Nadar, who appeared for the award enquiry. However, he did not produce the legal heirship certificate and compensation could not be paid to him and the same was ordered to be deposited into court as per Section 9(2) of the Act. It is also stated that the said Mrs.Sundari, W/O Mr.Pattani also did not appear for the award enquiry.

6. The second respondent would also state that on a local enquiry with the Village Administrative Officer, Udangudi, it was ascertained that the pattadhar namely the said Mr.Rajamani Nadar was no more, that his elder son is the petitioner herein and that his younger brother namely one Mr.R.Jayaraman acquired the right over the property pursuant to a partition deed registered as doc.No.472 of 1988 and sold the same to the said the said Mrs.Sundari and the third respondent herein by sale deeds dated 04.4.2007 vide doc.Nos.585 and 586 of 2007 respectively. It is further stated that patta No.2072 was issued to the said Mrs.Sundari and patta No.821 was issued to the third respondent herein, whose name was included as a joint pattadhar, that no compensation was paid to them and that the entire amount

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was ordered to be deposited into court. It is again stated that the lands in S.Nos. 472A/2A and 2B and 471/7A & 7B were already acquired and transferred to the Government during the year 2014, that the compensation amount has been deposited into the Reference Court and that the land owner can appear before the Court and produce title deeds to secure compensation. It is further stated that the petitioner, suppressing the partition deed, filed the above writ petition.

7. The prayer sought for in this writ petition cannot be granted. If the petitioner's brother sold the property to the third respondent herein, then, to that extent, the third respondent will be entitled to compensation. In any event, the second respondent stated that the compensation has not been paid and the amount has been deposited into court. Therefore, this Court is inclined to grant liberty to the petitioner to go before the Reference Court to vindicate his grievance.

8. The learned Senior Counsel appearing on behalf of the petitioner submits that a portion of the land may be allotted to the petitioner for the purpose of putting up a house for the petitioner.

9. Such a direction cannot be granted, as the lands have already been acquired and transferred to the Government in the year 2014 and an award was passed.

10. In the light of the above, the writ petition is disposed of giving liberty to the petitioner to approach the concerned Reference Court and file an application to pay compensation to the petitioner. Along with the application, the petitioner shall file all documents in support his claim. If such an application is filed, the Reference Court shall entertain the same, issue notice to the petitioner and other legal heirs of the said Mr.Rajamani Nadar, the said Mrs.Sundari, W/O Mr.Pattani and the third respondent herein and after hearing the parties, the Reference Court shall pass a reasoned order on merits and in accordance with law. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS VIII)

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Sub Assistant Registrar

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To

1.The District Collector, Thoothukudi District.

2.The Special Tahsildar, Land Acquisition (Thermal Power Project), Tiruchendur Taluk, Udankudi Post, Thoothukudi-628203.

+1cc to Mr.Silambanan, Advocate sr.6025
+1cc to M/s.Kaavya Silambanan Associates, Advocate sr.6430
+2cc to M/s.Kaavya Silambanan Associates, Advocate sr.6430
(03/03/2020)
+1cc to Government Pleader SR.NO. 6692

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of 2016

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