

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.12658 of 2020

T.Muthusamy

... Petitioner

Vs

1.The District Collector,  
Salem District,  
Salem. .... Respondents

2. The Sub Collector/Revenue Divisional Officer,  
Mettur Revenue Division,  
Mettur Dam-1,  
Salem District.

3. The Tahsildar,  
Mettur Taluk,  
Mettur Dam,  
Salem District.

4. The Land Acquisition Officer/  
District Revenue Officer,  
Omalar - Mettur Railway Broad-Gauge Project,  
Salem, Salem District.

5. The Special Tahsildar,  
Land Acquisition,  
Omalar-Mettur Railway Broad-Gauge Project,  
Omalar, Salem District.

6. The Divisional Railway Manager,  
Salem Division,  
Southern Railway,  
Suramangalam,  
Salem Town and District.

Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Mandamus, directing the first respondent to determine and pay fair compensation as per the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Settlement Act, 2013 for the acquisition of petitioner's land in S.No.340/2, to an extent of 45 cents and S.No.340/1, to an extent of 20 cents, totally 65 cents of the lands situated at Virudhasampatti Village, Mettur Taluk, Salem District forthwith.

For Petitioner : Mr.M.R.Jothimanian

For Respondents : Mr.M.Elumalai - R1 to R5  
Additional Government Pleader  
Mr.Ramkumar - R6  
Standing Counsel

#### ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus directing the first respondent to determine the compensation as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Settlement Act, 2013 and to pay the compensation to the petitioner within the time frame fixed by this Court.

2. The facts of the case are captured in the earlier order passed by this Court on 15.10.2020 and it will be more beneficial to the extract the entire order passed on 15.10.2020 hereunder:

*'When this writ petition came up for hearing on 05.10.2020, the following Order was passed by this Court:*

"When this writ petition came up for admission on 14.09.2020, this Court directed the learned Additional Government Pleader to take instructions from the respondents 1 to 5 and notice was also ordered to the 6<sup>th</sup> respondent, viz., Southern Railway and Mr.P.T.Ramkumar, learned Standing Counsel, is appearing on behalf of the 6<sup>th</sup> respondent.

2.The grievance of the petitioner is that the land in Survey No.340/1 measuring an extent of 20 cents alone was acquired and compensation was also fixed. In so far as the land in Survey No.340/2 is concerned, the grievance of the petitioner is that only 1 ½ cents was acquired, however, the Railways had taken possession of the entire 45 cents and service road has also been laid and no compensation has been paid till date. To substantiate this submission, the learned counsel relied upon the various communications sent by the parties in this regard.

3.Mr.M.Elumalai, learned Additional Government Pleader, appearing on behalf of the respondents 1 to 5, based on the written instructions received from the 5<sup>th</sup> respondent, submitted that in so far as Survey No.340/2 is concerned, the land measuring 1 ½ cents was acquired and steps are being taken to acquire the balance extent of land in Survey No.340/2. Therefore, the stand of the respondents 1 to 5 is that the balance extent of land in Survey No.340/2 has not been acquired till date. However, the grievance of the petitioner seems to be that the balance extent of land has also been utilised by the Southern Railways for laying the

service road.

4.Mr.P.T.Ramkumar, learned Standing Counsel, appearing on behalf of the Southern Railways, sought time to take instructions and file counter affidavit in this case.

5.Post this case under the caption "For orders" on 15.10.2020. In the meantime, the 5<sup>th</sup> and 6<sup>th</sup> respondents are directed to file their counter affidavit. An advance copy of the counter affidavit shall be served on the learned counsel for the petitioner and it shall also be filed in the Registry".

2. Mr.P.T.Ramkumar, learned Standing Counsel appearing on behalf of the Southern Railway brought to the notice of this Court the counter affidavit filed on behalf of the 6th respondent. The relevant portions in the counter affidavit is extracted hereunder:

"8. I submit that there are two Level Crossings in this line in between Mecheri-Mettur Dam. The distance between these two Level Crossings are 1.5 kms. To connect these two Level Crossings for usage of public to carry agriculture products, movements of tractors and other vehicles, a service road has to be laid. For this purpose, additional land of 0.16.15 Hectares (1615 Sq.Mts) is required in Viruthasampatti village. In survey Nos.340/2, 340/2B (New Survey Nos.340/2B1, 340/2B2, 340/2C) of petitioner's land an extent of 21.47 cents (871 Sq.Mts) has to be acquired for laying service road to provide convenience for movement of public.

9. I submit that the Land Acquisition Officer/ District Revenue Officer, Salem has issued Form B, public notice under Tamil Nadu Acquisition of Land for Industrial Purpose Act, 1997 on 09.01.2018. The acquisition proceedings for additional lands required has not been completed and we have not taken possession of the petitioner's land except 21.5 cents for which compensation has already been paid. The allegation of the petitioner that, we have taken possession of 65 cents from petitioner's land is totally incorrect and without any basis."

3. The learned counsel by pointing out to the stand taken in the counter affidavit submitted that the Railways have utilized only 1.5 cents in S.No.340/2A. The learned counsel submitted that the remaining extent has not been utilized by the Southern Railway and steps are being taken to acquire an extent of 871 sq.mtrs (21.47 cents) and only public notice has been issued in this regard on 09.01.2018 and the process of acquisition is yet to be completed.

4. The learned counsel for the petitioner refutes the stand taken by the Southern Railway and reiterates that the entire extent of 45 cents in S.No.340/2, has been utilized by the Southern Railway for laying the service road.

5. This Court has to factually ascertain the position on the ground and only thereafter any orders can be passed in this writ petition.

6. In view of the above, there shall be a direction to the 3rd respondent viz., the Tahsildar to conduct a survey and note down the actual extent of the property that has been utilized by the Southern Railway in S.No.340/2. If only a portion of the property has been utilized, it shall be indicated as to the extent of land that remains unutilized. The report shall reach this Court on or before 04.11.2020. The learned Additional Government Pleader shall give necessary instructions to the Tahsildar to conduct the survey and file a report.

7. Post the writ petition under the caption "for orders" on 06.11.2020."

3. Pursuant to the above directions issued by this Court, the Tahsildar had conducted a survey in the presence of the petitioner and the officials belonging to the Southern Railway on 31.10.2020. A report has also been filed before this Court by the Tahsildar, Mettur. The report virtually confirms the stand taken by the Southern Railway in their counter affidavit at paragraph Nos. 7 to 9.

4. Heard Mr.Jothimanian, learned counsel for the petitioner, Mr.M.Elumalai, learned Additional Government Pleader appearing on behalf of respondents 1 to 5 and Mr.Ramkumar, learned Standing Counsel appearing on behalf of 6<sup>th</sup> respondent.

5. It is seen from records that the proceedings have already been initiated under the Tamil Nadu Acquisition of Land for Industrial purposes Act, 1997. Notice has also been issued on 12.01.2018 under Section 3(2) of the Act. The learned counsel for the petitioner submitted that the petitioner has already given his representation and the petitioner only wants the acquisition proceedings to be completed at the earliest point of time and the compensation paid for the remaining extent of 43 ½ cents in S.No.340/2.

6. Mr.M.Elumalai, learned Additional Government Pleader appearing on behalf of the respondents 1 to 5 submitted that the acquisition proceedings will be completed within the reasonable time and the compensation will be fixed and the possession will be handed over to the 6<sup>th</sup> respondent.

7. Taking into consideration the report filed by the Tahsildar, Mettur and also the specific stand taken by the petitioner and also the learned Additional Government Pleader appearing on behalf of respondents 1 to 5, there shall be a direction to the 4<sup>th</sup> respondent to complete the process of

acquisition and payment of compensation within a period of three months from the date of receipt of copy of this order. In fact, the 5<sup>th</sup> respondent has already informed through his letter dated 22.10.2020 that the entire process will be completed within a period of three months.

8. This writ petition is disposed of with the above directions. No costs.

-Sd/-

Assistant Registrar (CS)

// True Copy //

Sub Assistant Registrar

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To

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Suramangalam,  
Salem Town and District.

+1 C.C.to MR.P.T.RAMKUMAR Advocate SR.NO.36797

+1 C.C.to The Government Pleader, High Court, Madras,  
SR.NO.36754

W.P.No.12658 of 2020

EV(CO)  
UMY (17.12.2020)



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