

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:09.10.2020

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

WP.No.13656 of 2020 &
WMP.16978 of 2020

A.Gunasekaran

... Petitioner

Vs.

1. The District Collector,
Salem District,
Office of the District Collector,
Salem District, Salem.

2. The Land Acquisition Officer cum
District Revenue Officer,
Office of the District Collector,
Salem District,
Salem.

3. The Assistant Divisional Engineer (C&M),
Highways,
Near Travellers Bungalow,
Sankari Town and Post 637301.

... Respondents

Prayer: Writ Petition filed under Section 226 of Constitution of India praying for issuance of Writ of Mandamus forbearing the respondents herein from interfering or demolishing the age old "Madurai Veeran Temple" situate in petitioner's patta land comprised in Survey No.548/6, Chinnakoundanur Vilage, Sankari Town, Salem District of an extent of 150 sq. meter without providing alternate site to the petitioner and the value of the temple structure so as to enable the petitioner to establish a new temple .

For Petitioner : Mr.M. Balasubramaniam
For Respondents: Mr.Ananda Murthy, AGP

O R D E R

This writ Petition has been filed for the issue of Writ of Mandamus forbearing the respondents from interfering or demolishing the private temple which is claimed to be belonging to the petitioner, without providing an alternate site to the petitioner to establish a new temple.

2. The case of the petitioner is that the subject property was originally owned by the petitioner and the patta also stood in his name. The State Highways commenced the process of acquisition in the year 2017 and a notification under Section 15 (2) of the Tamil Nadu High Ways Act, 2001 hereinafter called as the 'Act' was issued on 12.11.2017. The petitioner also submitted his objections and the enquiry was conducted on 16.2.2018. The objections given by the petitioner was rejected on 23.2.2018 by an order passed under section 15(3) of the Act. Even at the time of submitting the objections, this issue of providing alternate site for the temple was raised by the petitioner and it was rejected. Subsequently, the Government Order was passed and it was published in the Gazette on 8.8.2018.

3. Thereafter, the Award Enquiry was commenced and notice was issued to the petitioner under section 19(5) of the Act and the petitioner was called for enquiry on 10.09.2020. The petitioner has also placed all the materials for the purpose of fixing the compensation and the petitioner has also given his objections to provide an alternate place for the purpose of locating the temple.

3. The grievance of the petitioner is that the respondents are proceeding further to demolish the temple and take possession of the property even before the compensation is paid.

4. Heard Mr.M. Balasubramaniam, learned counsel for the petitioner and Mr.Anandamurthy, learned Addl. Govt. Pleader appearing for the respondents.

5. The narration of the facts supra clearly show that the objection made by the petitioner even at the time of the enquiry conducted under section 15(2) of the Act with regard to providing an alternative place for locating the temple was rejected by the respondents. The stage of proceedings has now reached awarding of compensation and already an enquiry has been conducted and the petitioner has also submitted his explanation during the enquiry claiming for compensation.

6. The learned Addl. Govt. Pleader submitted that the final orders will be passed within a period of eight weeks and there are absolutely no grounds to interfere with the acquisition at this stage. The stage of the proceedings has now reached the determination of compensation under section 19 of the Act. Immediately, after the notification is published in the Gazette under section 15(1) of the Act, the land absolutely vests with the Government free from all encumbrances.

7. Therefore, the claim made by the petitioner seeking for an alternative place to locate the temple is totally unsustainable. The petitioner does not possess any such rights to make such a claim under the Act.

8. In the considered view of this Court, the acquisition has reached the stage of determination of compensation and payment of the same.

9. Therefore, considering the facts and circumstances of the case, there shall be a direction to the 2nd respondent to immediately process the claim made by the petitioner and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. Except giving such a direction, no further orders can be passed in this Writ Petition.

10. This Writ Petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

msr
To

1. The District Collector,
Salem District,
Office of the District Collector,
Salem District, Salem.

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District Revenue Officer,
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Salem District,
Salem.

3. The Assistant Divisional Engineer (C&M),
Highways,
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+1 CC to Mr.M. Balasubramaniam, Advocate sr 33367

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AJS (CO)
SP(11/11/2020)