



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P.(MD).No.406 of 2020

S.Marimuthu

.. Petitioner

Vs.

1.The Commissioner of Land Reforms,
Kamarajar Promade PWD Estate - Ezhilagam,
Chepauk, Triplicane,
Chennai.

2.The Commissioner of Revenue Administration,
Disaster Management Mitigation,
Ezhilagam, Chepauk, Chennai.

3.The District Collector,
Sivagangai District,
Sivagangai.

4.The Revenue Divisional Officer,
Sivagangai District,
Sivagangai.

5.The Special Tahsildar (Land Acquisition),
Master Plan Complex, Sivagangai.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the respondents to transfer the land measuring an extent of 46 cents comprised in S.No.172/1 Part situated at Kanjirangal Village, Sivagangai District, acquired vide award made in Award No.2/85-86, dated 06.02.1986 on the file of the 5th respondent to the petitioner as per Section 48 B of the Land Acquisition Act, 1894 within the time stipulated by this Court.

For Petitioner : Mr.D.Sadiq Raja

For Respondents : Mr.M.Rajarajan, Government Advocate
for R1 to R5

ORDER

This writ petition has been filed by the petitioner for issuing a Writ of Mandamus, directing the respondents to transfer



the land measuring an extent of 46 cents comprised in S.No.172/1 Part situated at Kanjirangal Village, Sivagangai District, acquired vide award made in Award No.2/85-86, dated 06.02.1986 on the file of the 5th respondent to the petitioner as per Section 48 B of the Land Acquisition Act, 1894 within the time stipulated by this Court.

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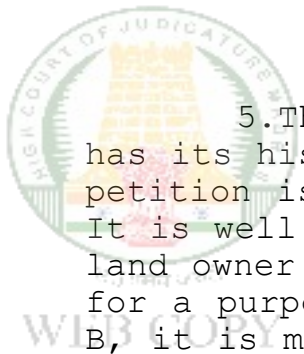
2.Heard both sides. By consent of both parties, this writ petition is taken up for hearing at the stage of Admission itself.

3.The petitioner is an Ex-service man and the property measuring an extent of 46 cents situated in S.No.172/1 in Kanjirangal Village, Sivagangai Taluk and Sivagangai District was acquired by the Government about 34 years back. An award, dated 06.02.1986, was also passed by the fifth respondent. It is stated that the land acquired was for a public purpose namely to construct a Master Plan Complex. The petitioner's grievance is that the land which was acquired was not utilized for the purpose for which it was acquired.

4.It is not in dispute that the petitioner paid compensation as determined by the fifth respondent. The request for higher compensation was referred to civil Court in L.A.O.P.No.42 of 1986 and the compensation was also enhanced in terms of the judgment of Civil Court. Despite the fact that the petitioner has received compensation for the entire land, stating that the land is not utilized for the purpose, the petitioner has submitted several representations to the respondents to re-transfer the land in terms of Section 48 B of the Land Acquisition Act, 1984. The request of the petitioner was considered and the fourth respondent has stated that there is no scope for re-transferring the land under Section 48B of Land Acquisition Act, on the ground that the land is required for a public purpose namely for the expansion of Collectorate Complex. Stating that no order was served on to the petitioner regarding rejection of his request for re-transferring of land under Section 48B of Land Acquisition Act, the petitioner filed the above writ petition. Section 48B of the Land Acquisition Act Reads as follows:

"48-B. Transfer of Land to original owner in certain cases.

Where the Government are satisfied that the land vest in the Government under this Act is not required for the purpose for which it was acquired, or for any other public purpose, the Government may transfer such land to the original owner who is willing to repay the amount paid to him under this Act for the acquisition of such land inclusive of the amount referred to in sub-section (1-A) and (2) of Section 23, if any, paid under this Act."



5.Though the amendment introduced by the State of Tamil Nadu has its history and object, this Court for the purpose of this writ petition is not inclined to go into other aspects of Section 48 B. It is well settled that Section 48 B does not give any right to the land owner to seek re-transfer on the ground that the land acquired for a purpose is not utilized for the same purpose. In Section 48 B, it is made clear that the land will not be re-transferred if it is required for another public purpose. Though the fourth respondent in his communication has specifically stated that the land is required for another purpose, such order has to be passed by the Government as the Government alone is competent under Section 48 B of the Act.

6.Though the petitioner has produced before this Court various representations, no such application in terms of Section 48B is submitted so far by the petitioner. Hence, the petitioner is permitted to submit a fresh application in terms of Section 48 B before the Government. When such application is submitted by the petitioner, the Government shall dispose of the same in terms of Section 48 B of Land Acquisition Act within a period of twelve weeks from the date of such representation being submitted by the petitioner.

7.With the above observations, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (P&A)

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/ /2020

Sub Assistant Registrar(CS)

TM

To

1.The Commissioner of Land Reforms,
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Chepauk, Triplicane,
Chennai.

2.The Commissioner of Revenue Administration,
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4.The Revenue Divisional Officer,
Sivagangai District,
Sivagangai.

5.The Special Tahsildar (Land Acquisition),
Master Plan Complex, Sivagangai.

+1 CC to M/s.SPL.GP (SR-1349[F] dated 10/01/2020)

+1 CC to M/s.D.SADIQ RAJA, Advocate (SR-1546[F] dated 10/01/2020)

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JMN(06.02.2020) 4P : 8C