



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :21.09.2020

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THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

W.P. (MD) No.13235 of 2019

and

W.M.P. (MD) No.9866 of 2019

N.Kandasamy Reddiyar

...Petitioner

Vs

1.The District Collector,
Collectorate, Kokirakulam,
Vannaarpettai, Tirunelveli.

2.The Administrative Engineer,
Public Welfare Department,
Admin Special Project Sub Division,
Ambasamudram.

3.The Assistant Executive Engineer,
Office of Assistant Executive Engineer,
PWD, Special Project Sub Division III,
Moolakaraipatti, Nanaguneri,
Tirunelveli.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents herein not to interfere with the possession and enjoyment of the petitioner in S.No.382/1B and to an extent of 0.17.0 Hectare, S.No.382/2 to an extent of 0.43.5 hectare in Moolakaraipatti Village, Nanguneri Taluk, Tirunelveli District, without fixing the compensation amount in accordance with law (The Right to Fair compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013), within a time stipulated by this Court.

For Petitioner

: Mr.V.Meenakshi Sundaram

For Respondents

: Mr.K.Chellapandian

Additional Advocate General

assisted by

Mrs.VPM.Vaishnavi

Government Advocate



ORDER

This Writ Petition is filed to direct the respondents not to interfere with the possession and enjoyment of the petitioner's property in S.Nos.382/1B and 382/2, measuring to an extent of 0.17.0 hectare and 0.43.5 hectare respectively situated at Moolakaraipatti Village, Nanguneri Taluk, Tirunelveli District, without fixing the compensation amount in accordance with the Right to Fair compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013.

2. According to the petitioner, the subject matter of the property belongs to the writ petitioner. The 2nd respondent / The Administrative Engineer, Public Welfare Department, Admin Special Project Sub Division, Ambasamudram, had announced "Thamirabarani River, Karumeni River and Nambi River interlinking water channel project" and decided to acquire the land in that locality, on the basis of their scheme.

3. For the aforesaid scheme, the petitioner has given a consent in writing to the 2nd respondent for utilizing the aforesaid land for the aforesaid water channel project subject to the payment of compensation under the Right to Fair compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013. Thereafter, the 2nd respondent has come forward for a private negotiation with the petitioner, as a result of which, a proposal was communicated to the petitioner towards compensation amount. Being aggrieved by the same, the petitioner is before this Court for the relief stated supra.

4. The learned counsel appearing for the petitioner would submit that the petitioner has not agreed with the compensation amount as proposed by the 2nd respondent under the private negotiation and in this regard, though the petitioner made a claim before the respondents to pay compensation as per the prevailing market value under the aforesaid Act, so far the respondents have not chosen to consider the claim of the petitioner.

5. A counter affidavit is filed on behalf of the 3rd respondent. On perusal of the counter affidavit, it is seen that the petitioner had refused to give consent for the private negotiation by stating that the Guide Line Value of the acquisition lands are very low ie., Rs.3,35,000/- per hectare. Therefore, in accordance with the provisions of the aforesaid Act, it is for the 1st respondent to pass final orders for compensation amount under the Right to Fair compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013., by conducting enquiry.



6.At this juncture, both the learned counsels jointly would submit that an award enquiry may be conducted by the Special Tahsildar, (Land Acquisition), Nanguneri and based on the report of the Special Tahsildar, which is going to be submitted, the 1st respondent, who is the competent authority, shall pass final orders for fixing the compensation amount.

7.Having regard to the facts of the case and recording the aforesaid submission made by the learned counsels on either side, this Court is inclined to pass the following direction:-

the 1st respondent / the District Collector, Collectorate, Kokirakulam, Vannaarpettai, Tirunelveli, is directed to conduct an award enquiry and thereafter, pass final orders for fixing the compensation amount, under the Right to Fair compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013 and in accordance with the Government Orders, within a period of six months from the date of receipt of a copy of this order;

8.This Writ Petition stands disposed of, with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Collector,
Collectorate,
Kokirakulam,
Vannaarpettai,
Tirunelveli.



2.The Administrative Engineer,
Public Welfare Department,
Admin Special Project Sub Division,
Ambasamudram.

3.The Assistant Executive Engineer,
Office of the Assistant Executive Engineer,
PWD, Special Project Sub Division III,
Moolakaraipatti,
Nanaguneri,
Tirunelveli.

+1 CC to M/s.D. NALLATHAMBI, Advocate (SR-17678[F] dated
22/09/2020)

W.P. (MD) No.13235 of 2019
21.09.2020

DKS (CO)
TR(21.10.2020) 4P 5C