



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.15218 of 2019

and

W.M.P. (MD) No.11739 of 2019

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P.S.P.Rathinsamy

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Department of Highways,
Fort St. George,
Chennai.

2.The District Collector,
Tirunelveli District,
Tirunelveli.

3.The District Revenue Officer,
Tirunelveli District,
Tirunelveli.

... Respondents

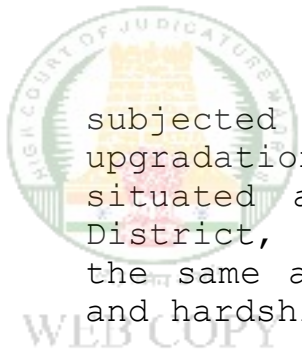
Prayer:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, to direct the respondents particularly the first respondent to pay compensation, solatium, as per law along with interest from the date of land acquisition proceedings i.e., 30.07.2014 till the date of realisation to the petitioner's property subjected to Acquisition for Highways purpose and formation, bearing Resurvey No.365/4, situated at Koodankulam Village, Radhapuram Taluk, Tirunelveli District, along with additional compensation for non-payment for the same at the earliest and consequential mental agony, torture and hardship forthwith.

For Petitioner : Mr.J.Sankarapandian
for Mr.S.Palani Velayutham

For Respondents : Mr.M.Rajarajan
Government Advocate

ORDER

This Writ Petition has been filed seeking a direction to the respondents, particularly the first respondent to pay compensation and solatium, as per law along with interest from the date of land acquisition proceedings i.e., 30.07.2014 till the date of realisation to the petitioner's property, which has been



subjected to Acquisition for formation of bypass, widening and upgradation of East Coast Road, bearing Resurvey No.365/4, situated at Koodankulam Village, Radhapuram Taluk, Tirunelveli District, along with additional compensation for non-payment for the same at the earliest and consequential mental agony, torture and hardship forthwith.

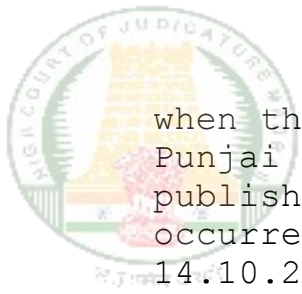
2. According to the petitioner, he is in possession and owning the agricultural land in Survey No.365/1A1B, measuring an extent of 1 Acre and 90 Cents, situated at Koodankulam Village, Tirunelveli District. A paper publication was issued to acquire 90 cents of land in the said survey number for extension, upgradation, widening and formation of bypass road. Thereafter, the respondents sub-divided the property into Sub-Division No.365/4 from the original division of S.No.365/1A1B. In view of the said sub-division, the said property lost its fertility and it is unfit for further agricultural operation. Subsequently, the respondent confirmed the acquisition under the Tamil Nadu Highways Act, 2001 and also issued the notification in the Gazette. Even after taking over the possession of the petitioner's property, the respondents have not paid any compensation to him. Further, according to the petitioner, the proceeding was initiated in the year 2014 and now, 6 years have lapsed. Therefore, appropriate direction may be given to the respondents to conclude the proceedings so as to enable the petitioner to get compensation for the lands acquired.

3. A counter affidavit has been filed by the third respondent. In the said counter affidavit, it has been stated as follows:-

'6. I submit that, after publication of 15(2) 'A' Notification under Tamil Nadu Highways Act, 2001, the 15(2) 'B' Notification under Tamil Nadu Highways Act, 2001, was approved by the Land Acquisition Officer and the District Revenue Officer, Tirunelveli, on 20.05.2014 and published in the English and Tamil dailies on 25.05.2014. It is to state that the Notification under Section 15(2) 'B' details the exact area of each field proposed to be acquired with other details.

The Land Acquisition proceedings are under progress and not yet completed. The petitioner's land has been under his possession and enjoyment till this day.

7. I submit that, before publishing 15(2) 'B' Notification under the Tamil Nadu Highways Act, 2001, the exact portion of each field which are covered in land acquisition were assigned with new sub-division numbers by the survey authorities only for notification purposes. The newly prepared sub-division records will be approved only



when the award is passed. I submit that it is true that the Punjai Lands to be acquired in Koodankulam Village was published in G.O.No.258, dated 27.11.2015 and the errors occurred were corrected vide G.O.No.210/2016, dated 14.10.2016. The same was also published in the Tamil Nadu Gazette No.51 Part II Sec. 2 dated 23.12.2015. The details of wet lands to be acquired were published in G.O.No.30/2018 dated 21.02.2018 and also published in the Tamil Nadu Gazette No.12/2018 Part II Sec. 2 dated 21.03.2018.

8. I submit that after publication of 15(2)''B'' Notification by the Land Acquisition Officer, it is an usual procedure to send the details of lands which are proposed to be acquired to the Sub-Registrar to avoid registration of deeds in respect of the Survey Numbers covered in acquisition to avoid multiplicity of proceeding. It cannot at all be considered as an instance of encumbrance on the lands. It is just an information to the concerned Sub-Registrar to avoid further registration.''

4.In the counter affidavit, it has been specifically stated by the third respondent that the land owners have to surrender the ownership, possession and enjoyment of the land to the Land Acquisition Officer on completion of the procedures as contemplated under the Land Acquisition Act. But, actually, the land acquisition proceedings are under progress and not yet completed and the petitioner is in possession and enjoyment of the said land till date. After completion of the land acquisition proceedings as contemplated under the Act, the compensation will be awarded. The petitioner has approached this Court at the preliminary stage and therefore, the relief sought for by him in the present Writ Petition cannot be considered at this stage.

5.Taking note of the averment made in the counter affidavit filed by the third respondent that the land acquisition proceedings is still pending and the respondents have not concluded the same, this Court is of the view that the petitioner has approached this Court at the preliminary stage, where the award has not yet been passed. Therefore, the payment of compensation in the present case will not arise at this stage. The petitioner has to make a request before the authority concerned for fair and reasonable compensation at the time of enquiry.

6.In view of the above, the relief sought for by the petitioner in this Writ Petition cannot be granted at this stage. Hence, this Writ Petition stands disposed of with a direction to the respondents to conclude the land acquisition proceedings as expeditiously as possible without any further delay by following



all the procedures as contemplated under the relevant Act. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

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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 Secretary to Government of Tamil Nadu,
Department of Highways,
Fort St. George,
Chennai.
- 2.The District Collector,
Tirunelveli District,
Tirunelveli.
- 3.The District Revenue Officer,
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