



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.01.2020
CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD) .No.22021 of 2019

R.Meenakumari

.. Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Revenue Divisional Officer,
(Land Acquisition)
Sivagangai Division,
Sivagangai District.

3.The Tahsildar,
Manamadurai Taluk,
Manamadurai,
Sivagangai District.

4.The Secretary to Government,
Revenue Department,
Fort St. George,
Chennai - 600 009.

.. Respondents

(Respondent 4 is impleaded suo motu by order of this Court dated 29.01.2020 by SSSRJ)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents to pay the compensation to the petitioner for the acquired land as per the market value along with 18% interest and 30% solatium as per the proceedings of the second respondent dated 10.07.2008.

For Petitioner : Mr.K.C.Ramalingam

For Respondents : Mrs.V.P.M.Vaishnavi
Government Advocate

ORDER

This Writ Petition is filed for issuance of a Writ of Mandamus directing the respondents to pay compensation to the petitioner for

<https://hcservices.ecourts.gov.in/hcservices/>



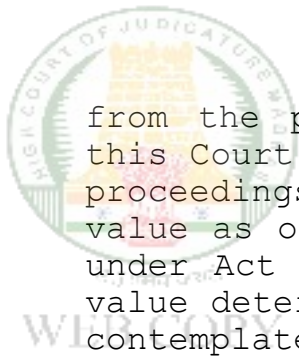
the land acquired from the petitioner as per the market value along with 18% interest and 30% solatium as per the proceedings of the second respondent dated 10.07.2008.

2. Heard the learned Counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

3. Considering the nature of direction to be given in this case, the Secretary to Government, Revenue Department, Fort St. George, Chennai - 600 009, is suo motu impleaded as respondent No.4 in this case.

4. The petitioner states that a parcel of land measuring 1 acre 4 cents in Survey No.85/1B1 and 85/1B3 in Kirungakottai Village, Muthanenthal Revenue Firka, Manamadurai Taluk, was acquired by the third respondent without following the procedures laid down under the Land Acquisition Act. The acquisition was for the purpose of digging channel for diverting water from Vaigai river to Rajakambeeram and other 15 irrigation banks for promoting agriculture. It is further stated that the petitioner's land along with the well has been utilised for that purpose. It is also stated by the petitioner that the second respondent has given undertaking to pay compensation as per the market value. Though several years have passed, no compensation has been paid admittedly to the petitioner. An enquiry notice was issued by the second respondent in 2008 asking the petitioner to appear for an enquiry on 18.07.2008. Further, it is stated that no enquiry was conducted by the second respondent pursuant to the notice at any point of time. After sending several representations to the first respondent, finding that the first respondent has not responded, the petitioner again approached the third respondent for compensation. Since no compensation has been disbursed to the petitioner for a long number of years, the petitioner has approached this Court.

5. From the information gathered from the communications and the submission of the learned Government Advocate appearing for the respondents, this Court has ascertained that no acquisition proceedings has been initiated so far to acquire the petitioner's land. It is unfortunate to note that the petitioner was deprived of his title and enjoyment in respect of a substantial property without paying compensation and none of the official respondents have considered the grievance of the petitioner nearly for about 20 years. In the letter addressed to the Government Advocate, dated 28.01.2020, the District Collector has stated that the respondents have to fix compensation as per Act, 30 of 2013 and that therefore, further time to fix compensation for the petitioner's land should be requested. The official respondents in the present Writ Petition are not competent or expected to fix compensation on their own without acquiring the land and it would be prejudicial to the interest of the land owners. Only after acquiring the land, the respondents should be directed to fix compensation for the land taken



from the petitioner for a public purpose. In similar instances, this Court has directed the State Government to initiate acquisition proceedings afresh and pay compensation on the basis of the market value as on the date of acquisition. When acquisition is initiated under Act 30 of 2013, the petitioner is entitled to get the market value determined in terms of the provisions of the new Act. The Act contemplates a fair procedure for fixing market value, proper multiplier and 100% solatium apart from interest. Hence, this Court is of the view that the petitioner is entitled to compensation in terms of the provisions of Act 30 of 2013 and all the statutory benefits available under the Act. Hence, this Writ Petition is allowed with a direction to the fourth respondent to initiate acquisition proceedings under Act 30 of 2013 in respect of the petitioner's land, namely, an extent of 1 acre 4 cents in Survey No.85/1B1 and 85/1B3 in Kirungakottai Village, Muthanenthal Revenue Firka, Manamadurai Taluk, within a period of three months from the date of receipt of copy of this order, invoking emergency power under the Act. The petitioner is entitled to get compensation in terms and in accordance with the provisions of the Act 30 of 2013. The compensation payable by the State Government shall be determined by the competent authority within a period of one month from the date of notification issued by the Government acquiring the land. The compensation payable to the petitioner for deprivation of his enjoyment for a period of more than 20 years may also be calculated independently by the District Collector. The District Collector shall fix the compensation towards the loss that is caused to the petitioner for keeping the petitioner away from his land after taking possession from him and utilised the land for a public purpose. As an interim measure, the District Collector shall disburse a sum of Rs.1,00,000/- (Rupees one lakh only) to the petitioner after verifying his title or lawful holding forthwith and this amount can be deducted from out of the compensation that is payable to the petitioner in terms of this order. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

SRM

To

1.The District Collector,
Sivagangai District,
Sivagangai.

<https://hcservices.ecourts.gov.in/hcservices/>



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(Land Acquisition)
Sivagangai Division,
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3.The Tahsildar,
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4.The Secretary to Government,
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+1 CC to M/s.K.C.RAMALINGAM, Advocate (SR-4045[F] dated 31/01/2020)

+1 CC to M/s.SPL.GP (SR-4331[F] dated 31/01/2020)

ORDER MADE IN
W.P. (MD) .No.22021 of 2019
29.01.2020

JMN(09.03.2020) 4P : 7C