

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2021

CORAM : JUSTICE N.SESHASAYEE

W.P.No.7424 of 2021

G.Krishnasamy

... Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by the District Collector
Villupuram District
Villupuram.
2. The Special Tahsildar (L.A.)
National Highways
East Coast Road
Cuddalore.
3. The National Highways Authority of India
Shri Towers South Phase
III Floor, Guindy
Chennai - 600 032.

.... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents herein to return back the petitioner's agricultural land comprised in S.Nos.649/3A at Marakkanam Village, Tindivanam Taluk and S.No. 13/11B, etc., at Alapakkam Village, Tindivanam Taluk to the petitioner herein.

For Petitioner : Mr.V.K.Rajagopalan

For Respondents : Mr.E.Manoharan
Special Government Pleader [R1, R2]
Mr.Su.Srinivasan [R3]

ORDER

The petitioner's land was acquired under the provisions of the Land Acquisition Act, 1894, for the formation of East Coast Road. The petitioner now submits, the East Coast Road has already been fully laid, and the petitioner's land was not

utilised, and hence, he requests that the same be returned to him. The petitioner has now come forward with the present writ petition seeking a direction to the Court for the return of the land, which according to him was not utilised by the National Highways.

2. Heard Mr.E.Manoharan, learned Special Government Pleader for respondents 1 and 2; and Mr.Su.Srinivasan, learned counsel for the third respondent.

3. The property which is vested in the Government can be returned by the Government, only under Section 48B of the Land Acquisition Act, 1894, which however is only made it optional for the Government to return it. However, under Section 101 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short 'Right to Fair Compensation Act'), it has become mandatory on the part of the Government to return it. However, it must also be indicated that in Indore Development Authority Vs. Manoharlal and others [(2020) 8 SCC 129], the Hon'ble Supreme Court has held that Section 101 of the Right to Fair Compensation Act, may not apply to acquisition under Land Acquisition Act, after come into force of Central Act No.13/2013. Therefore, the petitioner is so desirous, can approach the authority invoking Section 48B r/w. Sec.101 of the New Act for appropriate relief.

4. The petitioner submits that a representation has been given on 09.02.2021, which the first respondent may consider as one submitted under any of these provisions and take a decision on the same within a period of six weeks after the conclusion of the General Election-2021 of the Tamil Nadu State Legislative Assembly, which is scheduled to take place on 06.04.2021.

5. The writ petition is disposed of in the manner indicated. No costs.

सत्यमेव जयते

Sd/-
Assistant Registrar(CS IV)

//True Copy//

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Sub Assistant Registrar

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To:

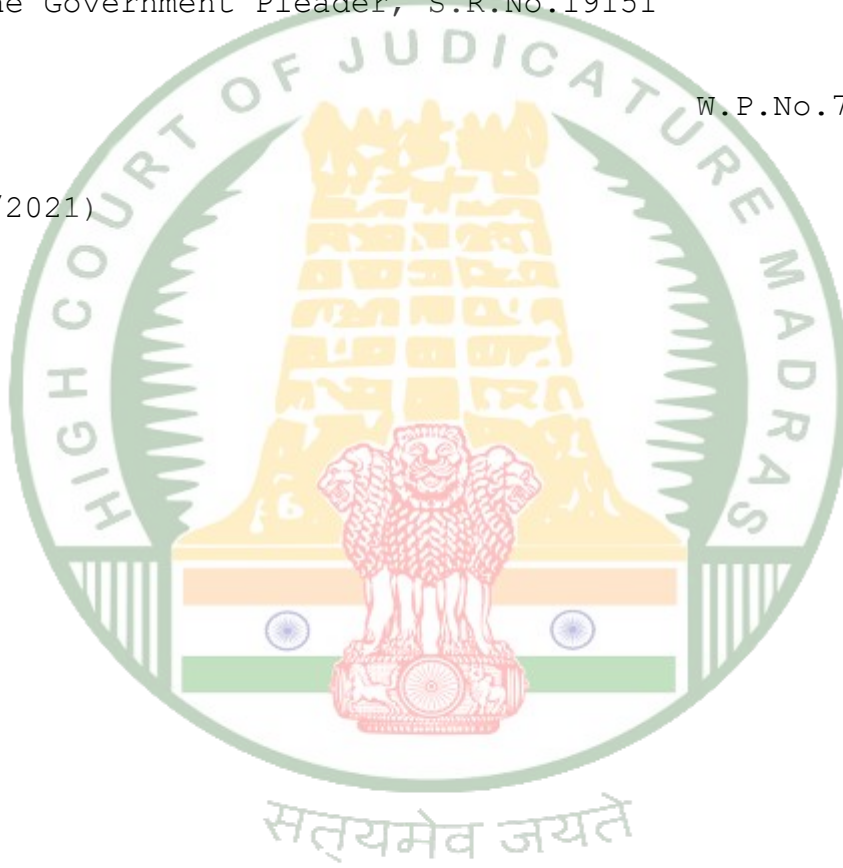
1. The District Collector,
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+1cc to Mr.V.K.Rajagopalan, Advocate, S.R.No.18641
+1cc to the Government Pleader, S.R.No.19151

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SSN(CO)
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