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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.NO. 19555 OF 2021

1. Mrs.R.Suppathal
w/o Mr.Rakkiappan,
F/H aged about 65 years,
Mangalam,
Tiruppur District - 641663
2. Mr.S.Velusamy
S/o Subbayyan
M/H, aged about 49 years,
2/24, Karuvelankadu Thottam,
Valayapalayam, Mangalam(Po)
Tiruppur District - 641663
3. Mr.K.Rajkumar,
S/o Kandhasamy,
2/14, Kallangkadu,
Valayapalayam, Mangalam (Po)
Tiruppur District - 641663
4. Mr.P.Muthu
S/o Palanisamy,
M/H aged about 39 years,
5/38, Athukadu,
P.S.Palayam, Mangalam(Po),
Tiruppur District - 641663.

..Petitioners

Vs.

1. The District Collector,
Palladam Road,
Tiruppur.



2. The Principal Secretary,
Revenue and Disaster Management Department
Secretariate, Chennai.

3. The Principal Secretary,
Commercial tax and registration Department
Secretariate, Chennai.

4. Power Grid Corporation of India,
B-9, Qutab Institutional Area, Katwaria Sarai,
New Delhi - 110016.

..Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus directing the respondents to take action in disbursing the compensation to the petitioners and by issuing a common revised order by the 1st respondent or all respondents jointly or severally within a fixed time.

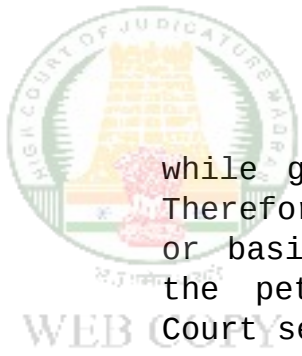
For Petitioners : M/s.Elvina Eunice

For Respondents : Mr.A.Selvendran
Government Advocate for R1 to R3

ORDER

The present writ petition has been filed for the issue of a writ of mandamus directing the respondents to fix the compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Act') and to pay the compensation to the petitioners.

2. The case of the petitioners is that the respondents had laid the high tension electric transmission lines over the property belonging to the petitioners and as a result of the same, the petitioners had suffered damages and are seeking for compensation. The further case of the petitioners is that the Act will not apply in a case of this nature, since the respondents are only given the right of user by the Collector,



while granting the permission under the Indian Telegraph Act. Therefore, according to the petitioners, there is no guideline or basis for the Collector to fix the compensation payable to the petitioners. Hence the petitioners have approached this Court seeking for compensation under the Act.

3. Heard Ms.Elvin Eunice, the learned counsel for the petitioner and Mr.A.Selvendran, the learned Government counsel for respondents 1 to 3.

4. In the considered view of this Court, the 2013 Act will not apply in a case of this nature. The right of user given to the department is not in the nature of an acquisition and therefore, obviously, the 2013 Act will not apply. It does not mean that the petitioners have no other alternative for getting a compensation.

5. It is too well settled by a series of orders passed by this Court, wherein, this Court has taken into consideration the various Government orders passed, which provide the basis for the Collector to fix the compensation payable for the damages sustained by the land owners, under the Indian Telegraph Act. In fact, if a land owner is not satisfied with the compensation fixed by the Collector, it is also open to the land owner to seek for enhancement of compensation by filing an appropriate application under Section 16(3) of the Indian Telegraph Act before the concerned District Court.

6. In view of the above, this Court does not find any ground to sustain the claim made by the petitioner under the 2013 Act for the simple reason that the Right of user will not amount to acquisition of the property and the petitioners continue to be the owners of the property.

7. In the result, the petitioners are given the liberty to work out their remedy seeking for compensation before the District Collector and if they are not satisfied with the compensation fixed by the District Collector, it is left open to the petitioners to seek for enhancement of compensation before the District Court as per Section 16(3) Indian Telegraph Act. Except giving this liberty, no further orders can be passed in the present writ petition.



8. This writ petition is disposed of with the above direction. No costs.

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Sd/-
Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

RAP/RR

To

1. The District Collector,
Palladam Road,
Tirupur.
2. The Principal Secretary,
Revenue and Disaster Management Department
Secretariate, Chennai.
3. The Principal Secretary,
Commercial tax and registration Department
Secretariate, Chennai.
4. Power Grid Corporation of India,
B-9, Qutab Institutional Area, Katwaria Sarai,
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+1cc to the Government Pleader, S.R.No.47506

W.P.No. 19555 of 2021

RR(CO)
RLP(12/10/2021)