

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2021

CORAM: JUSTICE N.SESHASAYEE

WP.NO.17774 OF 2020  
AND  
W.M.P.NOS.22035 & 22036 OF 2020

Dr.R.Jayaraj

...Petitioner

-Vs-

1. The State of Tamil Nadu  
Rep.by its Secretary to Government,  
Public Works Department,  
Secretariat, Chennai 600 009.
2. The Commissioner of Land Administration  
Exhilagam, Chepauk,  
Chennai-600 005.
3. The District Collector,  
Coimbatore District.
4. The Executive Engineer,  
Public Work Department,  
Water resources organization,  
Pollachi Zone, Pollachi,  
Coimbatore District.
5. The Tahsildar,  
Pollachi Taluk,  
Coimbatore District.

...Respondents

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 15.10.2020 made in Ni.Mu.47321/2005/A2 by the third respondent, quash the same and consequently direct the third respondent to forward the proposal to the concerned department in compliance with the order dated 02.06.2020 in W.P.No.6596 of 2012.

For Petitioner : Mr.R.Prabakar

For Respondents : Mr.V.Anandhamurthy  
Additional Government Pleader

## ORDER

The petitioner has preferred this Writ Petition, seeking to quash the order of the District Collector dated 15.10.2020 made in Ni.Mu.47321/2005/A2 by the third respondent.

2. The issue raised in this way as stated below:

The petitioner's property comprised in S.No.80/1 of Kondegounden Palayam Village, Pollachi Taluk was acquired for Parambikulam-Aliyar Project. This was some time in 1970. However, a part of the land of the petitioner was not utilized for the said Project. Therefore, the petitioner has approached PWD authorities, for re-assigning of the lands not so utilized by the PW Department. To this extent, the petitioner made a representation dated 19.03.1999 to the District Collector, Coimbatore. The District Collector sanctioned assignment of land (which as indicated was not utilized for PEP Project) vide his proceedings dated 25.04.2002. Towards assignment charges, the petitioner should deposit a sum of Rs.85,205/-. There was some re-working of this amount and finally, he was directed to pay a total sum of Rs.95,430/- and this was paid. However, despite the petitioner making payment of the assignment charges as indicated above, the property was not assigned to him. He therefore, moved this Court in WP. No.22636 of 2011 and this Court vide its order dated 14.11.2011 had directed the Commissioner of Land Administration, Chennai to dispose of petitioner's representation pending before the authority for the said purpose.

3. Pursuant to the order of this Court, the Commissioner of Land Administration took up the petitioner's representation for disposal and vide proceedings dated 27.02.2012, the authority rejected the petitioner's request for assignment of the property as it was against the Revenue Standing Orders. This again, the order of the CLA dated 27.02.2012 came to be challenged in WP.No.6596 of 2012. This was disposed of by this Court on 02.06.2020. This Court, has passed the following order:

"8.For the above reasons, the writ petition is allowed and the impugned order is set aside and the petitioner is granted liberty to seek for exclusion of the lands from the acquisition proceeding or in the alternative, seek for re-conveyance of the lands in question and submit a representation in this regard to the District Collector, Coimbatore District forthwith, enclosing all the relevant documents as annexures. The District Collector shall consider the said representation and forward the proposal to the concerned Department of the Government of Tamil Nadu for consideration. The

District Collector is directed to take appropriate action in this regard within a period of four months from the date on which the representation is given by the petitioner. No costs. Consequently, connected miscellaneous petition is closed."

4. Thereafter, on 29.09.2020, the petitioner made a fresh representation to the District Collector, Coimbatore and this came to be rejected by the District Collector Vide his order dated 15.10.2020. This is now under challenge.

5. Heard, Mr.R.Prabakar, learned counsel for the petitioner and Mr.V.Anandamurthy, learned Addl.Govt.Pleader for the respondents and perused the records.

6. This Court, considering that the petitioner appears to have over complicated the issue when an opportunity was available for him to invoke Section 48-B of the Land Acquisition Act, 1894 at that time when he made the original representation. This right was very much available to him earlier. Now, the right is available under Section 101 of the Right to Fair Compensation Act, 2015. Even though, a Constitutional Bench of the Hon'ble Supreme Court in Indore Development Authority Vs.Manoharlal and Others [2020(8) SCC 129] has indicated that Section 101 of the Right to Fair Compensation Act, 2015 may not be said to be made applicable to the acquisition made under the provisions of the Land Acquisition Act, 1894, but this has to be now understood in the context of the fact that under the Land Acquisition Act 1894, there is no provision for return of the unused land. However, the State of Tamilnadu has brought an amendment as Section 48-B of the Land Acquisition Proceedings vide TN Act 16 of 1997 for the said purpose. This implies that so far as Tamil Nadu is concerned, there is a statutory option available to our citizens to seek re-transfer of the land wherever acquired lands are not used. This is now expressed in Section 101 of the Central Act.

7. It is in these circumstances, this Court now only choses to direct the petitioner to approach the District Collector, with appropriate representation under Section 48B of the Land Acquisition Act 1894 as replaced by Section 101 of the Right to Fair Compensation Act 1894 within a period of four weeks from the date of receipt of a copy of this order where upon the District Collector, shall hold an enquiry into the said representation applying his mind to the issue, and forward the same to the Government.

8. The Writ Petition is accordingly, disposed of. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,  
State of Tamil Nadu,  
Public Works Department,  
Secretariat, Chennai 600 009.
2. The Commissioner of Land Administration  
Exhilagam, Chepauk,  
Chennai-600 005.
3. The District Collector,  
Coimbatore District.
4. The Executive Engineer,  
Public Work Department,  
Water resources organization,  
Pollachi Zone, Pollachi,  
Coimbatore District.
5. The Tahsildar,  
Pollachi Taluk,  
Coimbatore District.

+1cc to Mr.R.Prabakar, Advocate, S.R.No.10751

+1cc to the Government Pleader, S.R.No.10994

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SKY(CO)  
CS/09/04/2021