



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2021

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THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P. No. 23566 of 2017

1. T.C. Subramanian
2. Chandra

... Petitioners

-vs-

1. The District Collector,
Thiruvannamalai District,
Thiruvannamalai.
2. The Revenue Divisional Officer,
Thiruvannamalai,
Thiruvannamalai District.
3. The Deputy Chief Engineer,
Constructions,
Gauge Conversion-Katpadi-Villupuram,
Southern Railway,
Tambaram, Chennai.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the respondents to consider and pass orders on merits by disposing the written representation made by the petitioners on 13.07.2017 within a stipulated time.

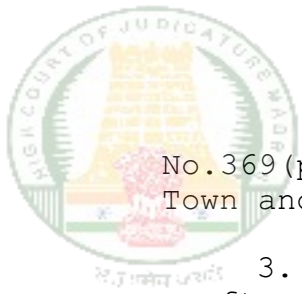
For Petitioners : Mr.C.Prakasam

For Respondents : Ms.Akila Rajendran
Counsel for Govt. for R1 & R2
Mr.P.T.Ramkumar
Standing counsel for R3

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondents to consider and pass orders on merits by disposing the written representation made by the petitioners on 13.07.2017 within a stipulated time.

2. The petitioners' land, i.e., housing plot at Survey



No.369(part), New No.369/8 at Pallavan Nagar, Thiruvannamalai Town and District is the subject matter herein.

3. The aforesaid subject land is consisting originally 5678 sq.ft., which in fact adjacent to railway track between Villupuram-Katpadi-Thiruvannamali, i.e., housing plot.

4. For expansion of Railway Station or Track between Villupuram to Katpadi, the Railway Authorities wanted to acquire the lands including the petitioners' land. Accordingly, acquisition proceedings were initiated, where, out of total 5678 sq.ft. of petitioners' land, only 1176 sq.ft. alone was acquired by the Railway for their track expansion work, as stated above, sometime prior to 2012.

5. Though such acquisition had been made to an extent of 1176 sq.ft. out of the total 5678 sq.ft. of the land of the petitioners, there was no compensation fixed. Therefore, in order to fix the said compensation, the first petitioner had already approached this Court by filing Writ Petition in W.P. No. 7122 of 2013, where he sought for prayer of mandamus directing the first respondent in that Writ Petition, who was the Tahsildar, Thiruvannamalai, Thiruvannamali District to fix the compensation at the rate of Rs.2,000/- per sq.ft. for the acquired land from the first petitioner.

6. In the said Writ Petition, apart from the Tahsildar, Thiruvannamalai, Deputy Chief Engineer, Constructions, Gauge Conversion - Katpadi - Villupuram, i.e., third respondent herein was also a party, who stood as the second respondent in that Writ Petition.

7. The said Writ Petition was disposed of by this Court, by order dated 22.03.2013, where, a learned Judge has passed the following:

"3. It is the case of the petitioner that he owns a house site situated in S.No.369(pat), New S.No.369/8, Pallavan Nagar, Thiruvannamalai Town. The said house site was acquired by the Railway Department for widening the broad gauge line for Villupuram - Katpadi Train route. The first respondent sent a communication to him stating that the said house site was taken on file by the first respondent and further informed the petitioner that after obtaining approval, compensation would be paid to him. However, the compensation has not been paid, inspite of several request made by the petitioner. Hence, the petitioner has come up with the present Writ Petition.



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4. Considering the above facts and circumstances, I direct the first respondent to consider the representation of the petitioner dated 13.11.2012 on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

5. The writ petition is ordered accordingly.
No costs."

8. Pursuant to the said order passed by this Court, the petitioners seem to have given several representations to the respondents to fix the compensation, that apart, it is the further grievance of the petitioners that, since, only 1176 sq.ft. alone was acquired out of total 5678 sq.ft., the remaining land could not be utilized by the petitioners, because there has been no ingress and egress for the remaining part of the land, as the early ingress and egress has now been closed and the front portion of the property which is abutting the earlier ingress and egress since has been acquired by the Revenue Authorities, such a situation has arisen. Therefore, the petitioners also have made a request to the Railway Authorities to acquire the remaining land also and pay the adequate compensation for the entire land.

9. In this case, some correspondences have been there, where, the petitioners have given a representation on 13.07.2017 along with the rough sketch, however, the said representation though had been taken into account, where, the enquiry was conducted by issuing summons by the second respondent on 01.08.2017, no further fruitful action seems to have been taken by the Revenue Authorities to acquire the remaining land and pay the compensation for the earlier land as well as proposed acquisition as offered by the petitioners. Only in that circumstances, the petitioners have filed the present Writ Petition with the aforesaid prayer.

10. Heard Mr.C.Prakasam, learned counsel appearing for the petitioners, who, having reiterated the aforesaid facts, would submit that, though a direction was given by this Court in the earlier round of litigation in the year 2013, no further action had been taken to compensate the already acquired portion of the land and no further action has also been taken by the respondents, despite the request made by the petitioners in this regard to acquire the remaining land, hence the petitioners have no other option to approach this Court seeks indulgence of this Court to give a suitable direction to act upon at the earliest point of time.

11. Heard Mr.P.T.Ramkumar, learned Standing counsel



appearing for the third respondent, who, on instructions, would submit, by relying upon the rough sketch along with the photographs by way of typedset of papers, that, pursuant to the filing of this Writ Petition, recently a spot inspection has been conducted by the concerned Railway Officers of the third respondent, where, they have taken a survey to verify the exact land acquired from the petitioners for the purpose of track expansion and laying of platforms and in this context, on instructions, the learned Standing counsel appearing for the third respondent would submit that, the total land of the petitioners were 5678 sq.ft., out of which, only 1176 sq.ft. alone was acquired.

12. Insofar as the said acquired land is concerned, the third respondent being the beneficiary is always ready and willing to pay the compensation, for which, not only for the petitioners' land and also to others land, a hefty amount of several crores of rupees were earmarked by the authorities concerned and once the compensation is determined and fixed by the Competent Authority of the Land Acquisition proceedings, certainly, the compensation would be paid immediately without any delay.

13. That apart, he would further submit that, insofar as the claim of the petitioners to seek for further acquisition of the remaining land also on the ground that there is no ingress and egress of the remaining property of the petitioners, that aspect has also been examined during the spot inspection and accordingly, the Railway Authorities have come to the conclusion that, certainly, there has been no ingress and egress for the remaining property of the petitioners. Therefore, in this context, for future expansion, the third respondent in-principle decided to acquire the remaining land also from the petitioners, however the said proceedings has to be a smooth sailing exercise by way of private negotiation, and for the proposed acquisition to be made, if the petitioners come forward to decide all the compensation amount by way of private negotiation, it can be easily executed.

14. In this context, the learned standing counsel appearing for the third respondent would further submit that, unless and until, the compensation payable to the petitioners for the already acquired land is determined and decided by the District Collector concerned or any Competent Authority, the third respondent may not be in a position to fix the compensation by way of private negotiation with the petitioners, eventhough if the remaining land has to be acquired by way of private negotiation. Hence, the learned Standing counsel would further submit that, if the first respondent, i.e., District Collector or any other authority has come forward to decide the



compensation payable to the petitioners for already acquired land, based on which, further action would be taken by the third respondent not only to pay the said compensation within a shortest possible time, as the amount is already earmarked, but also to proceed to have a private negotiation with the petitioners to acquire the remaining land as claimed by him, based on the amount to be determined in this regard by the District Collector for the already acquired land.

15. I have heard Ms.Akila Rajendran, learned counsel for the Government appearing for the first and second respondents, who would submit that, though in the earlier round of litigation, some orders have been passed on 22.03.2013, a direction was given to the first respondent therein, who was the Tahsildar concerned, since, the Tahsildar is not the Competent Authority to determine the compensation and these aspects seems to have not been brought to the notice to the District Collector, who is the first respondent in this Writ Petition, therefore, the first respondent / District Collector would immediately pay his intention to the issue herein to fix the compensation after determining the same and award would be passed in this regard within a shortest possible time for the acquired land, i.e., part of the land of the petitioners. Once such determination is made, it is open to the third respondent to act upon as they desired for acquiring the remaining land by way of private negotiation.

16. I have considered the rival submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

17. It is an admitted case, that the petitioners are the owners of the property at the aforesaid survey number to the extent of 5678 sq.ft., which is a housing plot.

18. On perusal of the field map as well as photographs filed by the third respondent, this Court finds that, the said property, belongs to the petitioners, were abutting the railway track or railway platform. Only for the purpose of laying or expansion of railway track or railway platform between Villupuram and Katpadi sector, several lands including the part of the land of the petitioners have been acquired.

19. For the said acquired land, even though, it is the claim made by the third respondent that, the amount has been earmarked for compensation, the said amount had not been paid, because, the compensation has not been determined by the Competent Authority, who is none other than the first respondent / District Collector herein.



20. Though some orders have been passed in the earlier round of litigation in 2013, probably, the same might not been brought to the notice of the District Collector concerned. Be that as it may, now several years have gone by and now the learned counsel for the Government submits that, the District Collector would immediately look into the matter and determine the compensation payable to the petitioners for already acquired land.

21. It is the stand of the third respondent also that, there is no ingress and egress for the petitioners for the remaining land, as this has been found proved after the field survey conducted by the third respondent office and in this regard, photographs with field map have been filed before this Court. It is the further stand of the third respondent that, they would be ready and willing to acquire the remaining land from the petitioners provided the compensation shall be only based on the private negotiation for which, the basis is, the compensation to be fixed by the District Collector or any other Competent Authority for already acquired land.

22. The aforesaid stand of the third respondent is taken into account and hereby recorded. Now, the first step has to be taken is, the District Collector or any other Competent Authority in the land acquisition proceedings concerned, shall fix the compensation immediately and pass an award to that effect. The said action can be undertaken by the first respondent within a period of four weeks from the date of receipt of a copy of this order and once such compensation is fixed and determined, the same shall be indicated to both the petitioner as well as the third respondent, who on receipt of the said fixation from the District Collector or any other Competent Authority, shall proceed to negotiate with the petitioner by way of private negotiation to acquire the remaining land as indicated above. And that process shall be completed within a period of eight weeks thereafter and it shall be quantified the compensation / cost for the remaining land also and that compensation / cost shall be paid by the third respondent to the petitioners within a period of eight weeks thereafter.

23. If these actions as indicated above is undertaken by the respective respondents, for which, the petitioner is co-operative, within the time schedule granted both the issues would be resolved and a quietus be given for the benefit of both sides.

24. It is made clear that, before determining the compensation as indicated above either by the first respondent / District Collector or any other Competent Authority, for already acquired land of the petitioners, opportunity of being heard



shall be given to both the petitioners and the third respondent and in this regard, it is open to the petitioners to produce whatever the documents and input to substantiate the claim with regard to the quantum of the compensation.

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25. With the said observations and directions, this Writ Petition is disposed of. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vji/MR

To

1. The District Collector,
Thiruvannamalai District,
Thiruvannamalai.
2. The Revenue Divisional Officer,
Thiruvannamalai,
Thiruvannamalai District.
3. The Deputy Chief Engineer,
Constructions,
Gauge Conversion-Katpadi-Villupuram,
Southern Railway,
Tambaram, Chennai.

+1cc to Mr.C.Prakasam, Advocate, S.R.No.35723
+1cc to Mr.P.T.Ramkumar, Advocate, S.R.No.35785
+1cc to the Government Pleader, S.R.No. 35953

W.P. No. 23566 of 2017

(CO)
CT(28/09/2021)