



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.09.2021

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THE HON'BLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P. (MD)No.16165 of 2021

and

W.M.P (MD) .NO.13037 of 2021

WEB COPY

- 1.S.Subramaniam
- 2.K.Rohinkumar
- 3.Rajamma
- 4.S.Nagamoni
- 5.S.Nadarajan
- 6.S.Kumarasamy

... Petitioners

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Revenue Department,
Fort St.George,
Chennai-600 009.

2.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Fisheries Department,
Fort St.George,
Chennai-600 009.

3.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Backward Welfare Department,
Fort St.George,
Chennai-600 009.

4.The District Collector,
Kanniyakumari District,
Nagercoil.

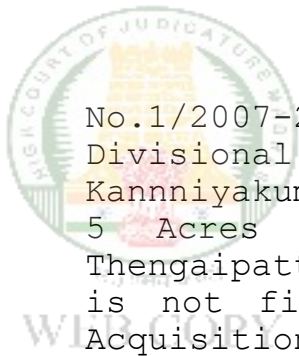
5.The Revenue Divisional Officer,
(Land Acquisition Officer),
Padmanabapuram,
Kanniyakumari District.

6.The Assistant Director of Fisheries,
Vadasery, Nagercoil,
Kanniyakumari District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring the Draft Award

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



No.1/2007-2008 dated 28.09.2007 of the fifth respondent, Revenue Divisional Officer (Land Acquisition Officer), Padmanabapuram, Kanniyakumari District in respect of the lands having an extent of 5 Acres comprised in R.S.No.445 of Painkulam Village (now Thengaipattinam Village), Vilavancode Taluk, Kanniyakumari District is not final and conclusive as per the provisions of the Land Acquisition Act, 1894.

For Petitioners : Mr.M.Suri
For Respondents : Mr.P.Subbaraj,
Counsel for State

O R D E R

The petitioners challenge Award No.1/2007-2008 of the fifth respondent in respect of the lands of an extent of five acres in R.S.No.445 of Painkulam Village (now Thengaipattinam Village), Vilavancode Taluk, Kanniyakumari District.

2. The case of the petitioners is that they were the owners of the above mentioned land. Although proceedings were initiated under the Land Acquisition Act, 1894 to acquire such lands, the petitioners state that the respondents did not take physical possession of the properties either on 04.10.2007 or subsequently. Therefore, the petitioners contend that such proceedings lapsed in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013). Although the petitioners contend that proceedings under the Land Acquisition Act 1894 have lapsed in terms of Section 24(2) of Act 30 of 2013, the petitioners claim compensation under Act 30 of 2013 and do not intend to challenge the acquisition. The present writ petition is filed for this purpose.

3. Mr.P.Subbaraj, learned counsel for the State, accepts notice on behalf of all the respondents. He submits that the present writ petition is not maintainable in view of the order passed in W.P.No.32005 of 2007 on 01.09.2015.

4. W.P.No.32005 of 2007 was filed by all the petitioners herein. Such writ petition was dismissed by order dated 01.09.2015. While dismissing the writ petition, the Court recorded, *inter alia*, as under in paragraph No.15 thereof:

"...Therefore, the petitioners are not entitled to receive any relief under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013, in the given set of facts and current situation. Further, the said property had been acquired for a public purpose i.e., formation of a fishing harbour in Kanyakumari District which is of paramount importance. Hence, the above writ



petition is dismissed. There is no order as to costs. Consequently, connected miscellaneous petitions are closed."

5. In view of the above conclusion in W.P.No.32005 of 2007, the present writ petition is not maintainable. The petitioners are endeavouring to reagitate the same issue instead of carrying the order in appeal if the petitioners are aggrieved by such order.

6. For the reasons set out above, W.P(D).No.16165 of 2021 is dismissed without any order as to costs. However, it is open to the petitioners to challenge the order dated 01.09.2015 or institute appropriate proceedings to seek the reliefs claimed herein in accordance with law. Consequently, connected W.M.P(MD).No.13037 of 2021 is closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

- 1.The Secretary,
State of Tamil Nadu,
Revenue Department,
Fort St.George,
Chennai-600 009.
- 2.The Secretary,
State of Tamil Nadu,
Fisheries Department,
Fort St.George,
Chennai-600 009.
- 3.The Secretary,
State of Tamil Nadu,
Backward Welfare Department,
Fort St.George,
Chennai-600 009.
- 4.The District Collector,
Kanniyakumari District,
Nagercoil.



5.The Revenue Divisional Officer,
(Land Acquisition Officer),
Padmanabapuram,
Kanniyakumari District.

6.The Assistant Director of Fisheries,
Vadasery, Nagercoil,
Kanniyakumari District.

+1 CC to M/s.M.SURI, Advocate (SR-28969[F] dated 14/09/2021)

+1 CC to M/s.SPL GP (SR-28811[F] dated 13/09/2021)

W.P.(MD)No.16165 of 2021

09.09.2021

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