



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.09.2021

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE M.DURAI SWAMY
AND
THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR**

**W.A(MD)NO.1874 OF 2021
and
C.M.P(MD)No.8236 of 2021**

1.S.Subramaniam

2.K.Rohinkumar

3.Rajamma

4.S.Nagamoni

5.S.Nadarajan

6.S.Kumarasamy :Appellants/Petitioners

.vs.

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

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

3.The State of Tamil Nadu,
represented 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),
Padmanabhapuram,
Kanniyakumari District.

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

: Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent praying this Court to set aside the order passed by this Court made in W.P(MD)No.16165 of 2021 of 2007, dated 09.09.2021 on the file of this Court.

Prayer in WP(MD) . 16165/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF DECLARATION, declaring the Draft Award No.1/2007-2008 dated 28.09.2007 of the 5th 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 Appellant :Mr.M.Suri

For Respondents :Mr.P.Thilakkumar
1 to 6 Government Pleader

JUDGMENT

[Judgment of the Court was made by **M. DURAISWAMY, J.**]

Challenging the order in W.P(MD)No.16165 of 2021, the Writ Petitioners have filed the above Writ Appeal.

2.The appellants filed the above Writ Petition to issue a Writ of declaration decalring the Draft Award No.1/2007-2008, dated 28.09.2007 of the fifth respondent as final and conclusive, as per the provisions of the Land Encroachment Act, 1894.

3.It is not in dispute that the Petitioners have filed a Writ Petition in W.P.No.32005 of 2007 seeking for issuance of a Writ of Certiorari to call for the records relating to the notices dated 13.09.2007 issued by the Revenue Divisional Officer, Padmanabhapuram and the acquisition proceedings of the Secretary to the Government, Revenue Department and to quash the same. The earlier Writ Petition was dismissed by the learned Single Judge by order, dated



01.09.2015. The learned Single Judge, while dismissing the Writ Petition, has observed as follows:

''15.....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 ie., 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.''

4. In the present Writ Petition, the learned Single Judge taking note of the order passed in the earlier Writ Petition in W.P.No.32005 of 2007, held that the Petitioners are endeavouring to re-agitate the same issue instead of taking the order in appeal.

5. The learned counsel appearing for the appellants submitted that the order passed in W.P.No.32005 of 2007 has become final, for the reason that the appellants have not challenged the same by way of an appeal.

6. The learned Single Judge has rightly dismissed the Writ Petition, on the ground that the issue has already been decided in the earlier Writ Petition in W.P.No.32005 of 2007. We do not find any ground to interfere with the order passed by the learned Single Judge. The Writ Appeal is devoid of merits and accordingly, the same stands dismissed. No costs. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsn

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.



To

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Government of Tamil Nadu,
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2.The Secretary to Government,
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Kannkyakumari District.

+1 CC to M/s.M.SURI, Advocate (SR-30787[F] dated 30/09/2021)

+1 CC to M/s.SPL.GP (SR-30886[F] dated 01/10/2021)

W.A(MD)NO.1874 OF 2021

and

C.M.P(MD)No.8236 of 2021

30.09.2021

RD(8.10.2021) 4P 9C