



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.07.2021

CORAM

THE HONOURABLE MR.JUSTICE **B. PUGALENDHI**

W.P (MD) No.1802 of 2017

and

WMP (MD) No.1483 of 2017

WEB COPY

1.S.Mariyaee

2.S.Rajendran

3.S.Solai

4.4.Chandrakala

... Petitioners

Vs

1.The District Collector,
Pudukottai.

2.The Revenue Divisional Officer,
The Land Acquisition Officer,
The Public Officer Complex,
Pudukottai.

3.The Divisional Engineer,
Highways Department,
Pudukottai

4.The Thasildar,
Pudukottai.

... Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of declaration declaring that the land acquisition proceedings under Section 4(1) followed by Section 4(6) of the Old Act of 1984 and Award No.2/1993 dated 24.05.1993 as null and void in respect of land measuring an extent of 12 cents comprised in New S.No.174/2A1 belonging to the petitioners in Kavinadu East Village, Pudukottai Taluk and District and deemed to have lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013).

For Petitioners : Mr.M.Aravind Subramaniam

For Respondents : Mr.B.Saravanan,
Government Advocate



ORDER

This writ petition is filed seeking for issuance of writ of declaration of the land acquisition proceedings under Section 4(1) followed by Section 4(6) of the Old Act of 1984 and Award No.2 of 1993, dated 24.05.1993 passed by the second respondent as null and void in respect of the petitioners' land in S.No.174 /2A in Kavinadu East Village Pudukottai.

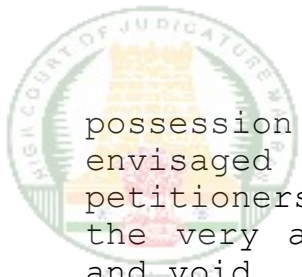
2.The learned Counsel for the petitioners submits that the first petitioner is the mother, petitioners 2 and 3 are her sons and petitioner 4 is her daughter. The first petitioner's husband one Late Subbaiah purchased lands to an extent of 6 cents in S.No.174/2 vide Document No.2407/1998, dated 15.12.1988 (Plot No.1) and Document No.2479/1988, dated 19.12.1988 (Plot No.4) registered in the office of the Sub Registrar of Pudukottai for valid consideration of Rs.3,000/- each plot, from one P.Palaniyandi, S/o.Perumal. The third petitioner has purchased a land to an extent of 6 cents vide Document No.2477/1988, dated 19.12.1998 (Plot No.2) from one Perumal, S/o.Vaidhi and another land from one Kalimuthu, S/o.Perumal vide document No.2478 of 1988, dated 19.12.1988 (plot No.3) for valid consideration of Rs.3,000/- each plot.

3.After purchasing the above lands, the father and the petitioners were in peaceful possession and enjoyment of the same and subsequently, they have constructed three thatched houses, compound walls around all the plots and they have also paid property tax, electricity charges and land revenue tax for all these years.

4.Under such circumstances, in the year 1990 the second respondent issued a notification dated 28.03.1993 under Sections 9 (1) and 10 of the Land Acquisition Act for acquiring the entire extent of 12 cents land comprising in S.No.174/2A for the purpose of forming an approach road connecting Perambalur and Manamadurai. Subsequently the above lands have been acquired by the second respondent and award has also been passed vide R.C.No.5514/1990, dated 24.05.1993 and award No.2 of 1993.

5.The learned Counsel further submits that there are serious procedural flaws committed in acquiring the said lands. Further compensation had neither been received by the petitioners nor deposited to their accounts by the authorities. Therefore, they have filed a suit in O.S.No.191 of 2013 for peaceful possession of the property, wherein the second respondent filed a counter affidavit that the proposed lands for acquisition were yet to be possessed and the same would be acquired at any point of time.

6.The learned Counsel further submits that the respondents though passed an award in the year 1993 itself, have not taken



possession of the said property within the stipulated period as envisaged under the Land Acquisition Act and therefore, the petitioners have filed this writ petition praying for the declaring the very acquisition proceedings and the subsequent award as null and void.

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7.The learned Government Advocate appearing for the respondents submits that the lands of the petitioners were acquired by the second respondent after issuing necessary notification, extra ordinary gazette notification, and notice under Sections 9(1), 10, 9 and 10 of the Land Acquisition Act, 1984. After following the due procedure and calling for the objections from the pattadars, the award was passed vide Award No.2/93, dated 24.05.1993. Since the owners of the lands refused to receive the award amount, the same has been deposited in Sub Court, Pudukottai on 15.07.1993 itself. Subsequently, the petitioners' lands were taken over by the second respondent and possession was handed over to the Highways Department (Requisition Department) on 07.06.1993.

8.Heard the learned Counsel on either side and perused the materials placed on record.

9.Admittedly, the petitioners' aforesaid properties in S.No.174/2A, Kavinadu East Village, Pudukottai District have been acquired by the second respondent for the purpose of forming an approach road by the National Highways Department in the year 1993 and the award has also been deposited in the Sub Court, Pudukottai. It is claimed by the petitioners that though their properties were acquired and award was passed in the year 1993, the possession has not been taken by the Government so far and they have been in possession and enjoyment of the same as of now.

10.The learned Government Advocate very fairly submits that though the Government have acquired the lands of the petitioners for the purpose of forming an approach road connecting Perambalur and Manamadurai road, said properties were not utilised by the Government. However, the Government may utilise the properties, as and when required for expansion of the road in future.

11.In response to the above, the learned Counsel for the petitioners submitted that as admitted by the learned Government Advocate, the Government have not utilised the properties so far. Further, the petitioners are in possession of the properties, they are residing there and the Government have not utilised the same as of now. However, the petitioners are prepared to hand over the lands acquired by the Government, as and when required by the Government on the prevailing market price as on that date. The second respondent has filed an affidavit dated 19.07.2021 including on behalf of other petitioners and the relevant portion reads as follows:

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



"7. I submit that in case the said proceedings is revived them I am prepared to surrender my land on payment of suitable compensation at the rates prevailing on that date."

12.The lands of the petitioners though have been acquired and award was passed, the lands were not utilised by the Government and the petitioners have been in possession of the lands. Further they are also prepared to hand over the lands as and when required by the Government.

13.In the light of the above, recording the submission made on behalf of the petitioners and the affidavit filed by the second respondent, dated 17.07.2021, this writ petition is disposed of. No costs, Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

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/ /2021

Sub Assistant Registrar(CS)

dsk

To

1.The District Collector, Pudukottai.

2.The Revenue Divisional Officer,
The Land Acquisition Officer,
The Public Officer Complex, Pudukottai.

3.The Divisional Engineer,
Highways Department, Pudukottai

4.The Thasildar, Pudukottai.

+1 CC to M/s.GP (SR-23727[F] dated 23/07/2021)

+1 CC to M/s.M.ARAVIND SUBRAMANIAM, Advocate (SR-23859[F] dated 26/07/2021)

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22.07.2021

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