



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.21880 OF 2010

AND

M.P.NO.1 OF 2010

R.Vaithinathan

... Petitioner

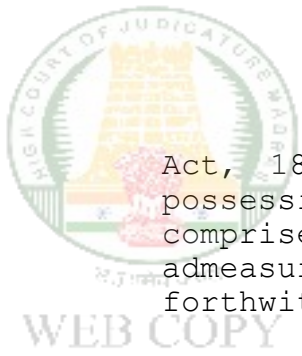
Vs.

1. Union of India,
Represented by the
Additional Secretary (Revenue),
Department of Revenue and
Disaster Management,
Government of Pondicherry,
Pondicherry.
2. The Deputy Collector (Revenue) cum
The Land Acquisition Officer,
Government of Pondicherry,
Karaikal.
3. The Superintending Engineer,
Public Works Department,
Government of Pondicherry,
Karaikal.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration declaring that the land Acquisition process initiated in G.O.Ms.No.64 dated 17.08.2006 under section 4(1) of the Land Acquisition Act, 1894 and the declaration notification issued under Section 6(1) of the Land Acquisition Act, 1894 in G.O.Ms.No.100 dated 13.11.2006 on the file of the first respondent and that the award proceedings passed under section 12(2) of the Land Acquisition Act, 1894 in proceedings file No.1755/LAO/dated 03.07.2010 on the file of the second respondent, have become invalid and lapsed by reason of a direct violation of Section 11-A of the Land Acquisition



Act, 1894 and consequently direct the respondents to restore possession of the lands acquired at Thalatheru, Ward-B, Block-5, comprised in Town Survey No. / Re-Survey No.12/3/1, Ryot Wet, admeasuring of an extent of 0.01.70 Hectares to the petitioner forthwith.

For Petitioner : Mr.R.Natarajan

For Respondents : Mr.J.Kumaran
Additional Government Pleader
(Pondicherry)

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Declaration declaring that the land Acquisition process initiated in G.O.Ms.No.64 dated 17.08.2006 under Section 4(1) of the Land Acquisition Act, 1894 and the declaration notification issued under Section 6(1) of the Land Acquisition Act, 1894 in G.O.Ms.No.100 dated 13.11.2006 on the file of the first respondent and the award proceedings passed under Section 12(2) of the Land Acquisition Act, 1894 in proceedings file No.1755/LAO/dated 03.07.2010 on the file of the second respondent, have become invalid and lapsed by reason of direct violation of Section 11-A of the Land Acquisition Act, 1894 and to consequently direct the respondents to restore possession of the lands acquired at Thalatheru, Ward-B, Block-5, comprised in Town Survey No. / Re-Survey No.12/3/1, Ryot Wet, admeasuring of an extent of 0.01.70 Hectares to the petitioner forthwith.

2.The case of the petitioner is that he is the owner of the subject property. The first respondent issued Notification for acquiring lands in Thiruvettakudy and Thalatheru Villages in Karaikal for providing shelters to the families affected by Tsunami. Since award was passed after a lapse of more than two years from the date of declaration issued under Section 6 of the Land Acquisition Act, the petitioner has filed this writ petition for the aforesaid relief.

3.The learned counsel appearing for the petitioner submitted that immediately after declaration notification issued under Section 6(1) of the Land Acquisition Act, by invoking emergency clause under Section 17 of the Land Acquisition Act, the respondents took possession of the petitioner's land without following the procedure contemplated either under Section 9 or



under Section 11 of the Land Acquisition Act. The learned counsel further submitted that after a lapse of so many years it is impossible to restore the land to the petitioner which has already been put to use by the Government. However, the petitioner is entitled to receive fair compensation in terms of the Right To Fair Compensation Act, 2013.

4.The learned counsel appearing for the petitioner further submitted that this Court may issue direction to the respondents to refer the petitioner's case to the jurisdictional Civil Court under Section 18 of the Land Acquisition Act, within a reasonable time frame and to issue direction to the Civil Court to dispose of the L.A.O.P. case within a reasonable time frame and permit the petitioner to raise all the points before the Civil Court.

5.The learned Additional Government Pleader (Pondicherry) appearing for the respondents submitted that this Court may consider the request made by the learned counsel appearing for the petitioner, however, the period during which the writ petition was pending before this Court may be excluded for the purpose of limitation.

6.Heard the arguments advanced on either side and perused the materials available on record.

7.The facts in the present case is not is dispute. Admittedly, the first respondent issued Notification for acquiring lands in Thiruvettakudy and Thalatheru Villages in Karaikal for providing shelters to the families affected by Tsunami. The fact remains that immediately after declaration notification issued under Section 6(1) of the Land Acquisition Act, by invoking emergency clause under Section 17 of the Land Acquisition Act, the respondents took possession of the petitioner's land.

8.In view of the above, this Court directs the second respondent to refer the petitioner's case to the jurisdictional Civil Court under Section 18 of the Land Acquisition Act, within a period of four weeks from the date of receipt of a copy of this order. On such reference being made, the competent Civil Court shall dispose of the L.A.O.P. case within a period of six months from the date of reference. The period during which the writ petition was pending before this Court is excluded for the purpose of limitation. Liberty is granted to the petitioner to



raise all the points including the benefits under the Right To Fair Compensation Act before the concerned Civil Court.

9. With the above observations, the writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Secretary (Revenue),
Department of Revenue and
Disaster Management,
Government of Pondicherry,
Pondicherry.
2. The Deputy Collector (Revenue) cum
The Land Acquisition Officer,
Government of Pondicherry,
Karaikal.
3. The Superintending Engineer,
Public Works Department,
Government of Pondicherry,
Karaikal.

+lcc to Mr.R.Natarajan, Advocate, S.R.No.19196
+lcc to the Government Pleader(Pondicherry), S.R.No.19008

W.P.No.21880 of 2010
And
M.P.No.1 of 2010

SSD(CO)
PM/08/04/2022