



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.NO.7226 OF 2004

1. Madhikulam
2. G. Bharathi
3. C. Gokulam
4. C. Ravikulan (Deceased)
5. M.Kuppumanickammal (Deceased)
6. S. Indira (Deceased) ***
7. Megala
8. S. Mangalakumar (Deceased) #
9. S. Vasanthakumar
10. Chitrakala
11. G. Prakash #
- # P11 & P8 are Legal Representatives of the deceased P5
as per order dated 01.03.2010
in WP MP Nos.2801 & 2802 of 2007
12. V. Komala *
13. R. Jaisankar *
- * P12 and P13 - Substituted as LR's in the place
of deceased 4th petitioner as per order dated
10.02.2012 in WP MP No.671 of 2011
14. M.Pushpa **
15. M.K.Karthikeyan **
16. S. Jayachandran
17. S. Yogachandran
18. S. Kandasamy @ Ravichandar
19. S. Nalini
20. B. Gomathy
21. V. Sandhya
22. B. Hemnath ****

... Petitioners

** P14 and P15 are substituted as Legal Heir
of the deceased 8th petitioner as
S. Mangalkumar as per the order made
in 24297 of 2019 on 21.08.2019

*** Petitioners 7, 9 & 10 are
recorded as Legal Heirs of the
6th petitioner as per order made in
WMP No.24291 of 2019 dt. 21.08.2019



Petitioners 16 to 22 are impleaded
as per order made in WMP No.26408 of 2019
dt. 14.02.2022

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Versus

1. The Secretary to the Govt. of Tamil Nadu
Highways and Rural Works Department,
Fort St. George,
Chennai - 600 009.
2. The Collector of Trivellore
District, Trivellore.
3. The Tahsildar, Ambattur Taluk,
Ambattur,
Chennai - 600 058.
4. The Chief Engineer
Tamil Nadu State Highways Department
Chepauk,
Chennai - 600 005.
5. The Defence Estate Officer,
Madras Circle,
306, Anna Salai,
Teynampet,
Madras - 18.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Mandamus directing the respondents 1 to 5 to handover the lands in S. No.423 measuring 77 cents, S. No.424 measuring 5 cents, S. No.425 measuring 42 cents and S. No.426 measuring 75 cents totalling in all 1.99 Acres in Vellanoor Village, Saidapet Taluk now in Ambattur Taluk, Tiruvallur District to the petitioners herein.

For Petitioner : Mr.M.S.Subramanian

For Respondents : Ms.D.Tamilselvi
Additional Government Pleader
for R2 to R4
Mr.J.Madhana Gopala Rao
for R5



ORDER

The case of the petitioners is that originally the lands in S. Nos. 423, 424, 425 and 426 measuring 77 cents, 5 cents, 42 cents and 75 cents respectively in Vellanoor Village, Saidapet Taluk, Ambattur Taluk, Tiruvallur District belong to the joint family property of Deivasigamani Pillai, who is the grand father of the petitioners 1 to 4 and 7 to 10 and father-in-law of 5th and 6th petitioners. It is averred in the petition that the subject lands, along with other lands, were originally requisitioned by the Defence Department and subsequently the said lands were de-requisitioned vide proceedings No. RC 2761/72 - L3, dated 31.01.1973, now known as "Avadi - Vaniyamchatram Road". It is the grievance of the petitioners that neither any compensation has been paid nor the said lands were handed over to them. It is further averred that without any acquisition proceedings and without any notification, their lands have been unauthorisedly utilised by the respondents, which is not sustainable. Hence, this writ petition has been filed seeking appropriate direction to the respondents 1 to 5 to hand over the lands mentioned in the aforesaid survey numbers and also to make payment of compensation for the portion of lands utilised by the respondents.

2. Learned counsel for the petitioners drew the attention to the earlier proceedings of this Court i.e., on 05.03.2012, wherein the presence of the revenue officials were marked and further this Court recorded the submissions made by the learned Advocate General, that the lands in dispute were wrongly classified as "Road Poromboke", while implementing the Updating Registry Scheme and rectification entries has to be done and the revenue officials had undertaken to file an affidavit to that effect. Further, he submitted that private negotiation with the Government has not yielded any fruitful result, hence, this writ petition has been filed to consider the grievance of the petitioners and sought for appropriate direction.

3. Ms.D. Tamilselvi, learned Additional Government Pleader appearing for the respondents 2 to 4 reiterating the counter affidavit submitted that as per the directions of this Court, District Level private negotiation committee conducted negotiation and fixed the value, whereas the same has not been agreed by the petitioners. Further she submitted as the land cost exceeds the limit of the District Level Committee, the revenue officials informed the Government to place the proposal before the State Level Committee. Earlier, the petitioners were informed to submit proof of documents like Title Deed, Legal Heirship etc. in respect of their claim of ownership for the subject lands by the Revenue department, which is still pending.



Finally, she submitted that this Court may issue direction to the petitioners to approach the respondents with the requisite documents for finalising the settlement, to give quietus to this matter, within a time frame to be fixed by this Court.

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4. Heard learned counsel on both sides and perused the materials available on record.

5. It is the admitted case of the parties that the lands of the petitioners were utilised by the Government for laying public road. However, the said lands were not acquired either under the land acquisition laws, viz., Land Acquisition Act or Highways Act, etc. which permits acquisition of land, but the lands were taken over and utilised without following any due procedure of law relating to acquisition. Therefore, computation of compensation for the lands utilised for the purpose of laying roads could not be quantified in a manner known to law. It is also the admitted case of the parties that the unutilised portion of lands were returned back to the petitioners. But insofar as the lands, which have been utilised for laying the roads, no compensation has been paid by the respondents.

6. Be that as it may. Pending the writ petition, pursuant to the directions of this Court, private negotiations were conducted between the petitioners and the respondents, wherein the land value was fixed at Rs.223/- per sq.ft., by the respondents, in all working out to an amount of Rs.1,93,30,621/-. However, the value so fixed was not acceptable to the petitioners, as the same does not contain any solatium, interest, etc., as would be available to the petitioners, had their lands been acquired in accordance with some acquisition proceedings. The petitioners have made a claim for fixation of the cost per square feet at Rs.1,000/-, which works out to Rs.8,66,84,400/-, to which the respondents have reservation. It is not in dispute that the petitioners have not produced any documents to substantiate the necessity for fixing the said amount. Equally, the basis on which the amount of Rs.223/- per sq.ft., has been fixed by the respondents is also not clear. Further, it is the admitted case of the parties that some of the original owners of the lands have died pending the proceedings and the impleaded petitioners/legal heirs have not submitted the requisite documents in support of their claims to the respondents.

7. In the aforesaid factual scenario, the fact being that the lands were taken over by the respondents without following the due procedure contemplated under any of the land acquisition laws, fixation of compensation by any means, would be an indiscernible task, as there is no method or mechanism, which



could be adopted to make computation of compensation. The claim of the petitioners cannot also be brushed aside, as they would be claiming compensation on the basis of the market value; but equally so, the grievance of the respondents not to pay the said amount cannot also be found fault with, as the lands have been utilised for public purpose, though not following procedures contemplated by law, yet, public money cannot be strewn around by making payment of hefty sums on the basis of the market value as claimed by the petitioners. As stated above, in respect of such take over of lands, without any acquisition process, there is no mechanism, which can be adopted for computing the compensation, which would satisfy the ends of justice for either party. In the light of the above stated factual scenario, this Court, without there being detriment to either side, to meet the ends of justice, in exercise of its extraordinary jurisdiction and invoking its inherent power under Article 226 of the Constitution of India, is inclined to issue the following directions :-

i) The respondents are directed to pay the sum of Rs.1,93,30,621/-, with 6% interest from the date of private negotiation decision till the date of payment as computed by them for the lands utilised for the purpose of road formation within a period of four weeks from the date of receipt of a copy of this order and the petitioners are directed to receive the said amount. However, this Court makes it clear that the receipt of the said amount by the petitioners is only on the direction of this Court and it is not deemed to be a just compensation for the lands of the petitioners.

ii) In the absence of any procedure for computation of compensation, this Court directs respondents 1 and 2 to evolve a mechanism, in line with the computation of compensation available under the land acquisition laws, viz., Land Acquisition Act, Highways Act, etc., within a period of four weeks thereafter, which mechanism shall take into account all the ingredients that are provided under the land acquisition laws, so that no detriment would be caused either to the petitioners or the respondents.

iii) Upon evolving such a mechanism, the compensation shall be computed by the respondents, after putting the petitioners on notice of the said mechanism and, thereafter, the compensation shall be computed and paid to the petitioners within a period of four weeks thereafter, less the amount already paid.



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iv) Liberty is granted to the petitioners to proceed in accordance with law, if they are not satisfied with the compensation, so fixed and paid to them on the basis of the mechanism evolved by respondents 1 and 2.

8. This writ petition is disposed of with the aforesaid observations and directions. No costs.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

vsi2

To

1. The Secretary to the Govt. of Tamil Nadu
Highways and Rural Works Department,
Fort St. George,
Chennai - 600 009.
2. The Collector of Trivellore
District, Trivellore.
3. The Tahsildar, Ambattur Taluk,
Ambattur,
Chennai - 600 058.
4. The Chief Engineer
Tamil Nadu State Highways Department
Chepauk,
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5. The Defence Estate Officer,
Madras Circle,
306, Anna Salai,
Teynampet,
Madras - 18.

+2ccs to Mr.M.S.Subramanian, Advocate, S.R.No.9596

+1cc to the Government Pleader, S.R.No.9875

W.P.No.7226 of 2004

GPL(CO)

RLP(20/04/2022)