



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2022

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.28383 OF 2015

1. P.Rajendran
2. A.Sivakumar
3. A.Venkatesan
4. S.Vijayan
5. E.Murugan
6. E.Pavun Kumar
7. M.Mani
8. M.Muniyappan
9. Raman
10. G.Arumugam
11. M.Rajendran
(P11, cause title amended vide order dated 26.10.2021 made in W.M.P.No.23237 of 2021 in W.P.No.28383 of 2015)
12. V.Amaravathi
13. D.Pari
14. M.Lakshmanan
15. R.Gunasekaran
16. K.Kasturi
17. Azhagambal
18. R.Revathi
19. R.Manikandan
20. R.Kasi
(P17 to P20 substituted as LRs of deceased petitioner P11 vide order dated 26.10.2021 made in W.M.P.No.23241 of 2021 in W.P.No.28383 of 2015)

... Petitioners

-Vs-

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Highways Department,
Secretariat, Chennai - 600009.



2. The District Collector,
Tiruvannamalai District,
Tiruvannamalai.
3. The Revenue Divisional Officer,
Tiruvannamalai.
4. The Tahsildar,
Tiruvannamalai Taluk,
Tiruvannamalai.
5. The Divisional Engineer,
Tiruvannamalai Division,
Highways Department,
Tiruvannamalai.
6. The Superintendent of Police,
Tiruvannamalai District,
Tiruvannamalai.
7. The Superintending Engineer,
TANGEDCO,
Tiruvannamalai Electricity Distribution Circle,
Tiruvannamalai.

... Respondents

Prayer :-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to assign suitable house sites to the petitioners in Survey No.18/2, or in any other suitable area in So. Kilnatchipattu Village, Tiruvannamalai Taluk and District to the extent occupied by the respective petitioners, to grant suitable monetary compensation for the loss caused to the petitioners for the demolition of the superstructures belonging to the petitioners and the damages caused to the trees, valuables etc. in the lands of the petitioners and to constitute and appoint an inquiry committee to inquire into the illegal demolition and eviction of the petitioners, to fix responsibilities on the authorities who acted in violation of law and procedure, to take action against them and to quantify the compensation liable to be paid for each petitioner.

For Petitioners: Mr.J.Saravana Vel
For R1 to R6 : Mr.V.Jeevagiridharan
Additional Government Pleader



ORDER

This Writ Petition has been filed for the issuance of Writ of Mandamus, directing the respondents to assign suitable house sites to the petitioners in Survey No.18/2, or in any other suitable area in So. Kilnatchipattu Village, Tiruvannamalai Taluk and District to the extent occupied by the respective petitioners, to grant suitable monetary compensation for the loss caused to the petitioners for the demolition of the superstructures belonging to the petitioners and the damages caused to the trees, valuables etc. in the lands of the petitioners and to constitute and appoint an inquiry committee to inquire into the illegal demolition and eviction of the petitioners, to fix responsibilities on the authorities who acted in violation of law and procedure, to take action against them and to quantify the compensation liable to be paid for each petitioner.

2. Heard Mr.J.Saravana Vel, learned counsel appearing for the petitioners and Mr.V.Jeevagiridharan, learned Additional Government Pleader, appearing for the respondents 1 to 6.

3. The petitioners were residing in the land comprised in Survey No.18/2 of So. Kilnatchippattu Village, Tiruvannamalai. It is situated on the Highways from Tiruvannamalai to Tindivanam which forms part of the Pondy to Krishnagiri Highway. The petitioners were living in the said land by constructing houses occupying various extents of land for the past several years. The petitioners had also applied for patta for their subject possession of land and their request was not considered. While being so, the respondents with the help of the Electricity Board employees, disconnected the electricity connection and demolished their respective houses without issuing any notice and without conducting any enquiry. Therefore, they filed this writ petition, directing the respondents to assign suitable house-sites to the petitioners in Survey No.18/2, or in any other suitable area in So. Kilnatchipattu Village, Tiruvannamalai District and also for compensation for the loss caused by demolishing their houses.

4. A perusal of the counter filed by the fifth respondent revealed that the land comprised in Survey No.18/2 of So. Kilnatchipattu Village, Thiruvannamalai District has been classified as "Nedunchalai" and the "A" Register maintained by the Village Administrative Officer is also an evidence to show that the subject property is classified as "Nedunchalai". After commencement of the Highways Act, 2001, by the order of the Government of Tamil Nadu in G.O.Ms.No.206, Highways (HN2) Department, dated 27.11.2002, the encroachment eviction was commenced and carried out. Accordingly, all the petitioners are



encroachers and they encroached their respective portions of land which is classified as "Nedunchalai" belong to the fifth respondent.

5. After following due process of law i.e prior intimation in the form of oral, tom tom and in written to all the encroachers including the petitioners were given well in advance about one month before the commencement of the eviction. On 07.07.2014, from the office of the Assistant Divisional Engineer Highways Construction and Maintenance, Tiruvannamalai, issued notice to vacate the encroachments in Highway Government Land within one week as per Section 28 of the Highways Act, 2001 and the notices were duly acknowledged by the encroachers including the petitioners by affixing their signatures in the copy of the notices.

6. It is made clear that the encroachers including the petitioners have duly received the notices issued by the Assistant Divisional Engineer Highways Construction and Maintenance, Tiruvannamalai. In fact, some of the encroachers have given application to the second respondent to postpone or to stop the eviction of encroachers on 07.07.2014 and 21.07.2014. It would show that all the petitioners have duly received the notices before evicting them from the subject land.

7. While pending the writ petition, this Court directed the fourth respondent to verify with regards to the availability of any other lands for assignment in favour of the petitioners. On direction, the fourth respondent submitted that, with regards to the assignment of alternative house sites to the petitioners at Survey No.18/2 of So. Kilnachipattu Village, the said land is classified as Ryotwari patta dry land. It has been brought under Natham and many house sites are there on the above said land. Therefore, the said land is not available for eventual assignment to the petitioners. The land comprised in Survey No.108/1 to an extent of 0.17.0 hectares which is classified as Assessed waste is available for assignment. Necessary proposals are under process and assignment orders will be issued as soon as the orders of the third respondent are received.

8. Considering the above, the third respondent is directed to pass appropriate orders with regards to the assignment of house-sites to the petitioners in the land comprised in Survey No.108/1, within a period of six weeks from the date of receipt of a copy of this order. Thereafter, the fourth respondent is directed to issue assignment orders to the petitioners. Insofar as the compensation is concerned, all the petitioners are encroachers and only after issuing notices, the encroachments were removed by the respondents. Therefore, the petitioners are not entitled for any compensation.



9. With the above directions, this writ petition is disposed of. There shall be no order as to costs.

WEB COPY

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
The State of Tamil Nadu,
Highways Department,
Secretariat, Chennai - 600009.
2. The District Collector,
Tiruvannamalai District,
Tiruvannamalai.
3. The Revenue Divisional Officer,
Tiruvannamalai.
4. The Tahsildar,
Tiruvannamalai Taluk,
Tiruvannamalai.
5. The Divisional Engineer,
Tiruvannamalai Division,
Highways Department,
Tiruvannamalai.
6. The Superintendent of Police,
Tiruvannamalai District,
Tiruvannamalai.
7. The Superintending Engineer,
TANGEDCO,
Tiruvannamalai Electricity Distribution Circle,
Tiruvannamalai.

+2ccs to Mr.J.Saravana Vel, Advocate, S.R.No.2954
+1cc to the Government Pleader, S.R.No.3397

W.P.No.28383 of 2015

PCH(CO)
PM/07/02/2022