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W.P.No.27388 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.09.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.27388 of 2016
and WMP.No.23592 of 2016

V.Subramaniyan

..Petitioner

Vs.

1.The District Collector,
Thiruvannamalai District,
Thiruvannamalai.

2.The District Revenue Officer cum the Sub Collector,
Cheyyar Taluk, Cheyyar,
Thiruvannamali District.

3.The Tahsildar,
Cheyyar Taluk,
Cheyyar, Thiruvannamalai District.

4.The Panchayat President,
Azhividathangi Village,
Cheyyar Taluk, Thiruvannamalai District.

...Respondents

Prayer:Writ petition has been filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus to call for the records pertains to Na. Ka. No.A4/11420/2016 dt 6.4.2016 issued by the 1st respondent and quash the same and direct the 1st respondent to pay adequate compensation for the land comprised in S. No. 1292/11 situated at Azhividathangi Village, Cheyyar Taluk, Thiruvannamalai District.



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For Petitioner : Mr.J.D.Ramachandran

For Respondents : Mr.U.Baranidaran
Additional Government Pleader

ORDER

This petition has been filed for issuance of writ of Certiorarified Mandamus to call for the records pertains to Na. Ka. No.A4/11420/2016 dt 6.4.2016 issued by the 1st respondent and quash the same and direct the 1st respondent to pay adequate compensation for the land of the petitioner.

2. The case of the petitioner is that the land measuring an extent of 0.55 acres (0.22.5 hectares) of dry land comprised in S.F.No.129, S.F.No.1292/11 situated at Azhividathangi Village, Cheyyar Taluk, Thiruvannamalai District is owned and possessed by the petitioner and the said land was assigned to the petitioner by the Government in the year of 1975 and a patta was also mutated in his name. While so, the 3rd respondent herein had illegally encroached upon the said land by laying



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a Thar road, without giving any notice or initiating any land acquisition proceedings and further no compensation was paid to the petitioner till date. Hence, the petitioner made a detailed representation dated 23.01.2016 to the respondents to provide adequate compensation for laying illegal road in his land but the same was ignored by the respondents and therefore, the petitioner has filed W.P.No.6144 of 2016, before this Court and this Court vide order dated 19.02.2016, directed the petitioner to give a fresh representation along with all necessary documents and also further directed the 1st respondent to conduct an enquiry and dispose the same. As per the direction of this Court, the petitioner gave a fresh representation dated 25.02.2016, however the 1st respondent without considering his claim, had passed the impugned order dated 06.04.2016 and directed the 2nd respondent to cancel the assignment dated 06.11.1975 and thereby rejected the claim of compensation. Aggrieved by the same, the petitioner is before this Court.

3. The learned counsel appearing for the petitioner submitted that admittedly a barren land was assigned in favour of the petitioner in the



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year 1975 with a condition to brought the barren land for cultivation within a period of three year and the said condition was complied with at the relevant point of time and the statutory period prescribed under the Assignment Order to cancel the assignment is ten years and thereafter the respondents have no power to cancel the assignment. In the present case on hand, the direction was given to cancel the assignment, after a lapse of 40 years, and without any acquisition proceedings or notice or compensation, the respondents acquired the land for the purpose of laying road, which is not sustainable and further the constitutional rights guaranteed under Article 300 A of the Constitution of India was violated by the respondents by not paying the compensation to the petitioner and hence prays for allowing of this petition.

4. The learned Additional Government Pleader appearing for the respondents submitted that the petitioner ought to have done direct cultivation on assigned land within 3 years from the date of assignment, however the petitioner never made any cultivation for more than 42 years. Considering the violation of assignment order, the 1st respondent



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after due enquiry has passed the impugned order and thereby the petitioner is not entitled for any compensation against formation of road. Further the petitioner is not residing in the said land and he is residing far away from the assigned land. It is further submitted that in the absence of cultivation, the respondents have no power to resume the land and as on date, the assignment of the land in favour of the petitioner was not cancelled and prays for dismissal of this petition.

5. This Court has carefully considered the rival submissions and also perused the materials available on record.

6. Facts in the present case is not in dispute. Admittedly the petitioner was assigned a land measuring an extent of 0.55 acres (0.22.5 hectares) of dry land comprised in S.F.No.129, S.F.No.1292/11 situated at Azhividathangi Village, Cheyyar Taluk, Thiruvannamalai District. It is also equally not in dispute that as on date, the assignment was not cancelled against the petitioner and further in the year 2006, the land is utilized for laying thar road, without any compensation. This Court has



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perused the entire counter affidavit, which reveal that the respondents claimed that the petitioner had violated the condition of free grant of assignment and the 2nd respondent has initiated action for cancelling the assignment. However they categorically admitted the fact that till date the assignment was not cancelled and further this Court is of the opinion that after the expiry of the statutory period, the respondents have no right to deny compensation to the petitioner, since the petitioner's land was utilised for laying Thar road and it is not sustainable also. Therefore, the impugned order is liable to be set aside.

7. For the reasons aforesaid, this Writ Petition is allowed and the impugned order in Na. Ka. No.A4/11420/2016 dt 6.4.2016 issued by the 1st respondent, is set aside and the matter is remanded to the 1st respondent to pay a fair compensation to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition is closed.

19.09.2022



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To

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M.DHANDAPANI.,J.

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