



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2022

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.43910 & 43911 of 2016
and WMP.Nos.37740 to 37743 of 2016
and 18484 & 18488 of 2022

K.Srinivasan

... Petitioner in W.P.No.43910 of 2016

K.A.Ruthuramoorthy(Died)

1. R.Sumathi

2. K.Guru Pravin

3. R.Dharini Preetha

(R2 to R4 impleaded vide order dated
06.09.2022 in WMP.No.17279 of 2022 in
W.P.No.43911 of 2016)

....Petitioners in W.P.No.43911 of 2016

-Vs-

1 The Secretary

Government of Tamilnadu Housing and Urban
Development Fort St. George Chennai

2 The District Collector

Erode District Erode

3 The Chairman

Tamilnadu State HOusing Board Nandanam
Chennai-35

4 The Special Tahsildar

Land Acquisition Neighbourhood Scheme Erode

5 The Superintendent Engineer

cum Executive Officer Erode Housing Board
Office of the Erode Housing Board
Surampatti Nalroad Erode 638 009

... Respondents in both the petitions



Common Prayer: Petition filed under Article 226 of the Constitution of India, for issuance of Writs of Certiorarified Mandamus calling for the records relating to the proceedings the 5th respondent the impugned public auction notice published in Dhina Thanthi news paper dated 4.12.2016 in respect of the serial number 64 to 67 (E.V.B. 128, 129, 131 and 133) Kollampalayam and quash the same and consequently direct the respondents to grant patta in the name of the petitioner upon making the order of redelivery of possession in respect of the petitioners land situated in Survey Nos.1252/2 and 1252/3 respectively to an extent of 0.34.0 and 0.40.0 respectively hectares situated in Kollampalayam, Erode District.

For petitioners : Mr. K.K.Ramakrishnan (in both the petitions)

For Respondents : Ms.Akila Rajendran RR1 to 4
Government Advocate
Mr.C.Kalaichelvan R5
(in both the petitions)

COMMON ORDER

Since the issue involved in both the cases are one and the same.

Therefore, both the writ petitions are disposed of by way of the common order.

2. The writ petitions have been filed seeking to quash the proceedings of the 5th respondent the impugned public auction notice published in Dhina Thanthi news paper dated 4.12.2016 in respect of the serial number 64 to 67 (E.V.B. 128, 129, 131 and 133) Kollampalayam and consequently direct the



respondents to grant patta in the name of the petitioner upon making the order of redelivery of possession in respect of the petitioners land situated in Survey Nos.1252/2 and 1252/3 respectively to an extent of 0.34.0 and 0.40.0 respectively hectares situated in Kollampalayam, Erode District.

3. The case of the petitioners is that the first respondent has issued notification on 06.08.1980 to acquire the petitioners' land and other land situated in the Kollampalayam Village to construct the house under the neighbourhood scheme. The respondents have initiated the land acquisition proceedings under Section 4(1) of the Land Acquisition Act in respect of the petitioners' land. Challenging the said notification, the petitioners father and others have filed writ petitions before this Court and stayed the said proceedings which was initiated by the respondents, vide its order dated 05.09.1984. But on 18.09.1989, this Court dismissed the writ petition. Challenging the said order, the petitioners have filed SLP before the Hon'ble Apex Court and the same was also dismissed. In the meantime, the respondents have passed award on 30.08.1994. Hence, the petitioners have filed a petition before the respondents to refer the matter for enhancement of compensation and after reference, the same was taken on file before the Additional Sub Court, Erode and the learned Judge enhanced the compensation in the year 1999. Immediately thereafter, the petitioners made an



application under Section 28A of the Land Acquisition Act to the second respondent and the same was not processed till date. In the meanwhile, the respondents preferred appeal as against the LAOP order before this Court. This Court, allowed the appeal and award amount was modified by this Court. However, till date, the respondents have not paid compensation. Without paying compensation, the 5th respondent issued tender cum public auction notice in the Dhinathanthi news paper on 04.12.2016. Challenging the said notice, the petitioners have filed the writ petitions before this Court seeking an appropriate remedy.

4. The learned counsel for the petitioners submitted that the petitioners have made several representations to the second respondent to disburse the compensation. But there was no response from them. In the said situation, the Right to Fair Compensation and Transparency Land Acquisition, Rehabilitation and Resettlement Act, 2013 come into force in acquiring the land. As per Section 24 of the new Act, if the land acquisition proceeding initiated under the old Act and compensation was not paid to the land owners, the entire acquisition

proceedings are automatically lapsed and therefore, the auction notice issued by



the 5th respondent itself is invalid and the petitioners are the absolute owner of the above said properties. However, the learned counsel prays that this Court may issue a direction to the respondents to consider the petitioners representation dated 17.12.2016 and to disburse the compensation amount in favour of the petitioners.

5. The learned Government Advocate have no objection as the contention raised by the petitioners and the compensation amount will be paid to the petitioners within stipulated time as fixed by this Court.

6. Heard, learned counsel for the petitioner, the learned Government Advocate appearing on behalf of the respondents and perused the materials available on records.

7. Considering the facts and circumstances of the case and the limited request made by the petitioners, this Court, without going into the merits of the case, passes the following order:

(i) this Court directs the 4th respondent to consider the representations dated 26.11.1999 under Section 28(A) of the Land



Acquisition Act 1894 read with Section 34 of the Act and pass appropriate orders, after affording opportunity to the necessary parties, on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order; and

(ii) for ready reference, this Court direct the petitioners to send a copy of the application under Section 28 A of the Land Acquisition Act along with proof and all the relevant documents to the 4th respondent so as to enable them to consider the same within a period of two weeks from the date of receipt of a copy of this order;

8. With the above directions, the Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are also closed.

06.09.2022

rli

Index : Yes/No

Internet: Yes/No

Speaking Order : Yes/No



WEB COPY To

- 1 The Secretary
Government of Tamilnadu Housing and Urban
Development Fort St. George Chennai
- 2 The District Collector
Erode District Erode
- 3 The Chairman
Tamilnadu State Housing Board Nandanam
Chennai-35
- 4 The Special Tahsildar
Land Acquisition Neighbourhood Scheme Erode
- 5 The Superintendent Engineer
cum Executive Officer Erode Housing Board
Office of the Erode Housing Board
Surampatti Nalroad Erode 638 009



WEB COPY



M.DHANDAPANI.,J.

Rli

W.P.Nos.43910 & 43911 of 2016

06.09.2022