



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.03.2022
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.34248 of 2014

M.Thirunavukarasu

...Petitioner

Vs.

1. The District Collector,
Vellore District, Vellore.
2. The District Revenue Officer,
Vellore.
3. The Divisional Engineer,
Highways Department, (Project Division)
Vellore-6.
4. The Superintending Engineer, (Project)
Highways Department,
Vellore.
5. The Tahsildar,
Taluk Office,
Gudiyatham, Vellore District.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the entire records in respect of the order passed by the 1st respondent in Na.Ka.D1/41121/2009 dated 27.11.2014 and quash the same and consequently direct the 1st respondent to give compensation to the petitioner's house in Survey No.376/B3 to the extent of 840 Sq.ft., of house of Ulli Village of Gudiyatham Taluk.

For Petitioner : Mr.D.Rajagopal

For Respondents : Mr.M.Murali, GA.

O R D E R

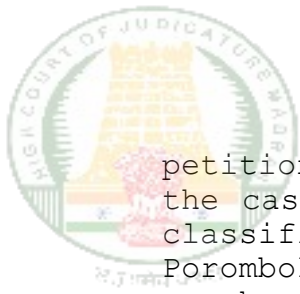
The petitioner has filed this writ petition seeking issuance of a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in Na.Ka.D1/41121/2009 dated 27.11.2014, quash the same and consequently to direct the 1st respondent to provide compensation to the petitioner's house.



2. The case of the petitioner is that, he purchased a vacant house site situated at Ulli Village from one Duraisamy in the year 1990 and constructed a house in it. The petitioner is in possession and enjoyment of the said property. Thereafter, the petitioner gave representation before the District Collector, requesting for grant of Patta and the same is pending. Whiles, the Divisional Engineer, Highways Department issued a Notice on 12.06.2010 to acquire the petitioner's house property for the purpose of constructing Rail over Bridge (in short 'RoB') under the Tamil Nadu Highways Act, 2001. On receipt of the notice, the petitioner approached the 3rd respondent and explained his grievances, however, the same was not taken into account. Thereafter, the 2nd respondent passed the Award proceedings in Award No.1/2013.(D1/41121/ 2009) dated 11.12.2013, however, the petitioner's name was not found in the said award passed by the 2nd respondent. Therefore, the petitioner made a representation dated 03.02.2014 before the 1st and 2nd respondents along with the necessary documents, requesting for payment of compensation, however, no orders have been passed on the same and without paying the compensation amount, the respondents have initiated the proceedings to demolish the petitioner's house.

3. Aggrieved by the said action of the respondents, the petitioner has filed a Writ petition in W.P.No.9110 of 2014 and this Court, vide order dated 28.03.2014, directed the 2nd respondent to consider the petitioner's representation dated 03.02.2014 and pass orders within a period of twelve weeks. Pursuant to the order of this Court, the Divisional Engineer, Highways Department sent a communication dated 07.07.2014 to the Tahsildar, by fixing the compensation at Rs.5,78,705/- and directed the Tahsildar to pay the compensation amount, however, the same was not complied with by the Tahsildar. Thereafter, the 2nd respondent sent a communication dated 05.09.2014 to the Tahsildar, directed the petitioner to appear for enquiry, and pursuant to which, the petitioner appeared before the 2nd respondent along with the relevant documents and explained his grievances, however, without considering the submissions made by the petitioner, the 1st respondent has passed the present impugned order dated 27.11.2014 in Na.Ka.D1/ 41121/ 2009, rejecting the petitioner's claim on the ground that the disputed land is classified as Natham Porombokke and it belongs to the Government. Hence, challenging the said order passed by the 1st respondent, the present Writ petition is filed.

4. Learned counsel for the petitioner submitted that, even on the bare perusal of the impugned order dated 27.11.2014, it is clear that the 1st respondent has mechanically passed the said order, without considering any of the contentions raised by the



petitioner and without considering the facts and circumstance of the case. Further, it is pertinent to note that, if the land is classified as Natham, it cannot be termed as Government Poromboke land. He further submitted that, the petitioner has purchased the property and has constructed a house in the year 1990 and he is in absolute possession and enjoyment of the said property and he is paying the necessary taxes to the authorities without any default.

5. It is the further grievance of the petitioner that, though the compensation for the building was fixed at Rs.5,78,705/-, vide communication dated 07.07.2014, however, till date the payment has not been made to the petitioner. He furthermore submitted that, even if there is dispute in respect of the classification of the land, it is the duty cast on the Land Acquisition Officer to refer the matter in terms of provisions of the Act before the proper forum. However, without referring the matter, the 1st respondent has passed the present order under challenge, rejecting the petitioner's claim, which is not sustainable. Hence, he prayed for appropriate orders.

6. Learned Government Advocate appearing on behalf of the respondents submitted that, in the Award Copy No.1/2013 (D1/41121/2009) dated 11.12.2013 enclosed herein, the name of the petitioner is included as one of the owners along with six other owners under Sl.No.27, Survey No.376-B/123 and subsequently, compensation amount of Rs.5834/- was disbursed by Tahsildar, Gudiyatham to the seven land owners. He further submitted that, the petitioner's claim for compensation was rejected as per Tamil Nadu Highways Act, 2001 on the ground that, the disputed property is constructed in Survey No.376/B3, which is classified as Grama Natham. Further, the petitioner has been given sufficient time to vacate from the illegal construction put up by him in the Government land and the 3rd respondent has issued a written notice dated 30.10.2014 to the petitioner to vacate the premises. Hence, he prayed for dismissal of the present Writ petition.

7. Heard the arguments advanced by the learned counsel on either side and perused the materials available on record.

8. A perusal of the materials available on record, placed both by the petitioner and the respondents, reveals that the petitioner has constructed the house in the vacant house site comprised in Survey No.376/B3, which is classified as Natham, and he is in possession and enjoyment of the said property. It is the further case of the petitioner that he is possession and enjoyment of the property for more than 32 years. Further, a perusal of the records reveal that the property, claimed by the petitioner, is classified as Natham. That being the case, the land classified as 'Natham' cannot, by any stretch, be deemed to



be Government Poromboke land as Natham is a dwelling unit and it is different from Government Poromboke land.

9. On perusal of the Section 18, 19 and 21 of the Act, it reveals that, any interested person is entitled to receive a compensation amount. In the present case, the petitioner is an interested person insofar as the house constructed in the said land. Further, even if there is title dispute, and if the petitioner has not obtained patta in his favour, the course open to the respondents is to refer the matter under Section 21 of the Act before the competent court. Without referring the matter to the competent civil court, the 1st respondent has rejected the petitioner's claim straight away, which is wholly illegal, arbitrary and unsustainable. Hence, the present impugned order dated 27.11.2014 passed by the 1st respondent in Na.Ka.D1/41121/2009 is liable to be set aside.

10. Accordingly, the impugned order dated 27.11.2014 passed by the 1st respondent in Na.Ka.D1/41121/2009 is set aside and this writ petition is allowed. The 1st respondent is directed to pay the compensation amount to the petitioner in respect of the construction put up by him in the above said house site within a period of eight weeks from the date of receipt of a copy of this order. The respondents are further directed to refer the matter under Section 18 of the Act or 64 of the fair compensation Act 2013 with regard to the enhancement of compensation in respect of the acquired land, within a period of twelve weeks thereafter. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

skt

To:

1. The District Collector,
Vellore District, Vellore.
2. The District Revenue Officer,
Vellore.
3. The Divisional Engineer,
Highways Department, (Project Division)
Vellore-6.



4. The Superintending Engineer, (Project)
Highways Department,
Vellore.

5. The Tahsildar,
Taluk Office,
Gudiyatham, Vellore District.

+1 cc to Mr.D.Rajagopal, Advocate Sr.NO. 19265

+1 cc to Government Pleader Sr.NO. 19407

W.P.No.34248 of 2014

SR(CO)

A.SK(26/05/2022)