



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.16762 OF 2014

AND

M.P.NO.2 OF 2014

1. Hadja Nadjoumoudine
Rep. by Power Agent
Shiek Dawood Sarah Ummal

2. Jakir Hussain
Rep. by Power Agent
Dawood Shah

3. Tajunisa
Rep. by Power Agent
Safiyudeen

... Petitioners

.Vs.

1. The Union of India,
Rep. by the Government,
Revenue Department,
Government of Pondicherry,
Pondicherry.

2. The Deputy Collector (Revenue),
cum Land Acquisition Officer,
Karaikal, Pondicherry.

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorari to call for records in G.O.No.62 dated 18.02.2011 issued by 1st respondent published in Government Gazette on 02.03.2011 and quash the same as illegal, incompetent and unconstitutional.

For Petitioners : Mr.V.Raghavachari

For Respondents : Mr.J.Kumaran
Additional Government Pleader
(Pondy)



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ORDER

The writ petition has been filed challenging the G.O.No.62 dated 18.02.2011 issued by 1st respondent published in Government Gazette on 02.03.2011.

2. The case of the petitioner is that the property situated in Ward K Block 7 in T.S.No.36/2 in Oduthurai Village, Neravy Commune, Karaikal and the property in Ward K Block 7 in T.S.No.36/3/2 in Oduthurai Village, Neravy Commune, Karaikal, originally belonged to the petitioner's father, K.Mohamed Abdullah and his mother, A.Kanima Ummal, respectively. Presently, petitioners as the legal heirs, are in possession of the properties. In the year 2010, the Government of Puducherry by its G.O.No.36, Revenue and Disaster Management Department dated 05.10.2010 issued notification under Section 4(1) of the Land Acquisition Act, 1894 for acquisition of an extent of 34.78.49 Hectares in Karaikal District for the purpose of formation of Western By-pass Road, stretching over eight Revenue villages. Thereafter, the department issued notification under Section 6 of the Land Acquisition Act in G.O.Ms.No.62 dated 18.02.2011 and the same was published in Government Gazette on 02.03.2011. Thereafter, the Sub/Deputy Collector (Revenue) cum Land Acquisition Officer issued notice dated 13.09.2013, directing the petitioners to represent their claim for compensation in respect to the land acquisition and the petitioners made a reply dated 11.10.2013 claiming compensation at Rs.400/- per sq.ft. However, the first respondent had not looked into this matter for about two years. On 25.09.2013, the first respondent had awarded an inadequate compensation of Rs.11,34,851/- and Rs.45,827/- in respect of the above said properties. After receipt of notice of award under Section 12(2) of the Land Acquisition Act, the petitioners made appearance on 11.10.2013 in the office of the first respondent and filed their claim statement demanding a higher compensation and the compensation amount was not determined in terms of Section 11A of the Land Acquisition Act. Since the award was passed after the lapse of two years, the entire proceedings had lapsed. Hence, the present writ petition has been filed.

3. The learned counsel for the petitioners would submit that initially notification under Section 4(1) of the Land Acquisition Act was published on 05.10.2010, however, Section 6 Declaration notice was issued on 02.03.2011. It is sufficient to quash the entire acquisition proceedings. However, it appears that the road has already been laid and has been put to public use, this Court may direct the respondents to pay the compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, which was paid to the similarly situated



persons as mentioned in paragraph 4 of the letter dated 19.04.2022 filed by the respondents. Accordingly, he prayed for appropriate orders.

4. Learned Additional Government Pleader appearing for the respondents would submit that notification under Section 4(1) of Land Acquisition Act was issued in the year 2010 and declaration under Section 6 of Land Acquisition Act was published in the year 2011. After passing the proceedings under Section 17(3) of Land Acquisition Act, paper publication was issued for payment of compensation. The individual land owners were also served notices through the concerned Village Administrative Officers for producing the valid original title deeds and to receive the compensation. But the petitioners did not turn up to produce the original documents for getting the compensation amount. Further, the possession of the land was already taken and handed over to the Public Works Department on 30.10.2013. The purpose of acquisition of land was implemented and now the general public are using the said road. Further an award was passed on 27.11.2020 under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, as per the order passed by this Court in W.P.No.28366 of 2014 and the similarly situated persons have received compensation. Further, there was a title dispute in between the legal heirs of the land owners. Hence, he prays that this Court may direct the petitioners to produce the title deeds within a period of two weeks. If the Land Acquisition Officer, satisfied with the title, the compensation amount will be disbursed in favour of the petitioners within a period of four weeks thereafter.

5. Heard the learned counsels appearing on either side and perused the materials available on record.

6. The petitioners' land was acquired for a public purpose of formation of Western By-Pass Road, Karaikal District. Notification under Section 4(1) of the Land Acquisition Act was issued in the year 2010 and declaration under Section 6 of the Land Acquisition Act was published in the year 2011. However, award was not passed in time. Thereafter, final award was passed by the second respondent vide Award No.10663/DC(R)/LA/B1/2005 dated 27.11.2020 under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (RFCTLARR). Since the award was passed under RFCTLARR (New Act), the petitioners are entitled to receive the compensation as per RFCTLARR (New Act), 2013. Further, from the letter dated 19.04.2022, it appears that other similarly situated persons were paid compensation and the petitioners have not received any compensation on the ground that they did not turn up to produce the original documents to receive the compensation amount.



7. In view of the above, this Court directs the petitioners to file an appropriate original documents for title deed before the Land Acquisition Officer/second respondent within a period of two weeks from the date of receipt of a copy of this order. On receipt of the original title deed documents, if the documents otherwise in order, the respondents are directed to pay the compensation to the petitioners under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('New Act') within a period of four weeks thereafter.

8. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Union of India,
Revenue Department,
Government of Pondicherry,
Pondicherry.
2. The Deputy Collector (Revenue),
cum Land Acquisition Officer,
Karaikal,
Pondicherry.

+1cc to Mr.V.Raghavachari, Advocate, S.R.No.33768
+1cc to the Government Pleader (Pondy), S.R.No.34677

W.P.NO.16762 OF 2014 AND
M.P.NO.2 OF 2014

NRL (CO)
PBS/23/06/2022