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W.P.No.22010 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.22010 of 2022

S.Pooncholai

... Petitioner

Vs.

1.The Special District Revenue Officer,
(Land Acquisition)
Chennai – Kanyakumari Industrial Corridor Project,
Kanchipuram – 631 501.

2.The Special Tahsildar,
(Land Acquisition)
Chennai – Kanyakumari Industrial Corridor Project,
Kanchipuram – 631 501.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus, directing the respondents to release the payment of compensation of Rs.3,45,259.36/- that was withheld by the referring authority 33.33% of the total award for the land acquired in R.S.No.373/3B2 ad-measuring 712 Sq. metre as per the registered document No.2327 of 2011 with SRO, Cheyyur, in Patta No.1108 along with multiplier cost of 1.25% with 100% solatium and interest calculated @ 12% from 11.01.2020 till the date of payment along with interest and other benefits (Nearly Rs.9,00,000/-) as per the terms of the right to Fair Compensation and



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Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013.

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For Petitioner : Mr.M.Krishnamoorthy

For Respondents : Mr.D.Ravichander
Special Government Pleader

ORDER

This petition has been filed to direct the respondents to release the payment of compensation of Rs.3,45,259.36/- that was withheld by the referring authority 33.33% of the total award for the land acquired in R.S.No.373/3B2 ad-measuring 712 Sq. metre as per the registered document No.2327 of 2011 with SRO, Cheyyur, in Patta No.1108 along with multiplier cost of 1.25% with 100% solatium and interest calculated @ 12% from 11.01.2020 till the date of payment along with interest and other benefits (Nearly Rs.9,00,000/-) as per the terms of the right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013.

2. The learned counsel for the petitioner would submit that the petitioner is the owner of the property comprised in Survey No.373/3B2



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situated at Cheyyur Village, Cheyyur B-Block Taluk, Kancheepuram District.

The said land was purchased by the petitioner vide Sale Deed dated 01.07.2011 on the file of the Sub-Registrar Officer, Cheyyur, and he was in possession and enjoyment of the said land by obtaining Patta No.1108 issued by the Revenue Department, Cheyyur. While so, the first respondent acquired the said land for the purpose of laying State Highways and arrived compensation at Rs.18,81,363/- including the interest and the same has been released by the said DRO, land acquisition, Kancheepuram. During 3(2) enquiry, the referring authority had withheld 33.33% of the sum of Rs.3,45,259.36/- without any authority. Challenging the same, the present writ petition has been filed.

3. This Court by an order dated 08.09.2022 issued direction to the second respondent herein to appear before this Court as to how he can withhold the amount of Rs.3,45,259.36/-. Pursuant to which the second respondent, appeared before this Court and stated that the said amount was withheld as per the circular dated 23.05.2022. However, the learned Special Government Pleader, on instructions, would submit that there is no provision available under the State Highways Act or under the Land Acquisition Act to



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withhold the amount awarded by the Land Acquisition Officer.

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4. The facts of the case is not in dispute. The said land was acquired for State Highways however, after passing of the award, 33.33% was withheld for development charges. Further, for deducting the development charges from the award amount, no provision is available under the Tamil Nadu State Highways Act or the right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013. In the absence of any provision, based on a circular, deducting the amount is not sustainable. Further, the circular cannot override the Act. Hence, the act of the Land Acquisition Officer is illegal and the same is not sustainable.

5. In view of the above, this Court is inclined to direct the respondents to release the balance of the award amount to the petitioner within a period of four weeks from the date of receipt of a copy of this order and the petitioner is at liberty to make an application before the authority for referring the matter for enhancement, if he is so advised.

6. Accordingly, the writ petition stands allowed. No costs.



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Index: Yes/ No

Speaking / Non-Speaking

To

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M.DHANDAPANI,J.

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