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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.25057 of 2022
and W.M.P.No.24003 of 2022

R.Malarkodi

... Petitioner

Vs.

1.The Collector,
Kanchipuram District,
Tiruvannamalai - Kanchipuram Road,
Thaiyar Kullam,
Kancheepuram - 631 501.

2.The Special Tahsildar (LA),
Mannur Valarapuram Nemili Scheme,
SIPCOT Project Office,
Irungattukottai - 602 117.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus, directing the respondents to pay the sum of Rs.1,16,39,443/- being the amounts wrongfully withheld from the compensation payable and interest for delayed payment @ 15% P.A. From 13.11.2020 till 19.01.2022 (431 days) to the petitioner.

For Petitioner : Mr.C.P.Prasanth Gopal

For Respondents : Mr.T.K.Saravanan
Government Advocate

**O R D E R**

This petition has been filed seeking a direction to the respondents to pay the sum of Rs.1,16,39,443/- being the amounts wrongfully withheld from the compensation payable and interest for delayed payment @ 15% P.A. From 13.11.2020 till 19.01.2022 (431 days) to the petitioner.

2. The learned counsel for the petitioner would submit that the petitioner is the owner of the land to an extent of 9600 Sq. ft comprised in Survey No.516/1F and 516/1G situated at Mannur Village, Sriperumbudur Taluk. The said land was acquired by the Government under the provisions of the Tamil Nadu Acquisition of Land for Industrial Purpose Act, 1997 (TN Act 10 of 1999) vide Notification in G.O (MS) No.96, Industries (SIPCOT-LA) dated 21.04.2015. While so, the second respondent acquired the said land for the purpose of laying State Highways and arrived compensation at Rs.1,25,06,661/- including the interest and the same has been released by the said DRO, Sriperumbudur. During 3(2) enquiry, the referring authority had withheld 33.33% of the sum of Rs.1,16,39,443/- without any authority. Challenging the same, the present writ petition has been filed.

3. On the earlier occasion, this Court issued a direction to the second respondent to appear before this Court as to how he can withhold the above



said amount. 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 Government Advocate, on instructions, would submit that there is no provision available under the State Highways Act or under the Land Acquisition Act to withhold the amount awarded by the Land Acquisition Officer.

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. Consequently, connected miscellaneous petition is closed.

21.09.2022

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Index: Yes/ No

Speaking / Non~Speaking



To

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M.DHANDAPANI,J.

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