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W.P. No. 28490 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No. 28490 of 2022

and

WMP.Nos.27799 & 27821 of 2022

S.Ramanathan

... Petitioner

Versus

1. The District Collector
Salem District.

2. The Special Tahsildar (ADW)
Attur. Salem District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned notification issued by the respondents 1&2 in R.Dis.No.23190/80/D 13, dated 08.12.1980 published in Salem District Gazette, dated 18.12.1980, and the consequential order of the 3rd respondent in Na.Ka.No.861/92/A, dated 18.03.2004 and quash the same and to forbear the respondents from interfering or acquiring the petitioner's land



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comprised in S.No. 205/7 measuring to an extent of 1.41 acres which belongs to the petitioner situated in East Rajapalayam, Attur Taluk, Salem District.

For Petitioner : Mr.K.Sathyabal

For Respondents : Mr.U.Bharanidharan
Additional Government Pleader

ORDER

This writ petition has been filed challenging the notification issued by the respondents 1 and 2 in R.Dis.No.23190/80/D-13, dated 08.12.1980 published in Salem District Gazette, dated 18.12.1980, and the consequential order of the third respondent in Na.Ka.No. 861/92/A, dated 18.03.2004, quash the same and to forbear the respondents from interfering or acquiring the petitioner's land comprised in S.No.205/7, measuring an extent of 1.41 acres, which belongs to the petitioner, situated in East Rajapalayam, Attur Taluk, Salem District.

2. The case of the petitioner is that, originally the aforesaid property was owned by Pattammal, which she obtained by way of two registered sale deeds, dated 12.03.1980 and 19.03.1980 and the petitioner, as



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per the Hindu Law, is one of the Class II legal heirs of the said Pattammal.

The land in question was acquired for the welfare of Harijan under the provisions of Tamil Nadu Acquisition of Land for the Harijan Welfare Act, 1978 (Tamil Nadu Act 31 of 1978) for providing house-sites and Award was also passed on 17.03.1981 and compensation amount is lying in Revenue deposits. While the said Pattammal was alive, she was sought to be dispossessed from her property. Therefore, she filed W.P.No.6134 of 1992 before this Court seeking a direction to forbear the respondents therein from interfering with her possession. This Court, by order dated 02.03.2000, had dismissed the said writ petition, giving liberty to the petitioner to challenge the action of the respondents as and when the cause of action arises, if she is still in possession of the land in question. Further, the said Pattammal was assured by the Revenue Official that alternative land would be allotted to her by providing house-site in the village, but Gazette Copy was not furnished to her. Hence, she filed another Writ Petition in W.P.No.37387 of 2002, in which, this Court, by order dated 20.01.2003, directed the respondents therein to furnish the Gazette Copy. As per the direction of this Court, the Tahsildar concerned enclosed the Gazette and the same was forwarded to the said Pattammal on 22.10.2003. Thereafter, the Tahsildar concerned issued a



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notice to Pattammal to hand over possession of the land under the acquisition proceedings, in Na.Ka.No.861/92/A dated 18.03.2004, since W.P.No.6134 of 1992 was dismissed. In the meanwhile, Pattammal filed another Writ Petition in W.P.No.12986 of 2004 seeking to quash the impugned notification in R.Dis.No.23190/80/D.13, dated 08.12.1980 of the first respondent and the consequential proceedings in Na.Ka.No.861/92/A dated 18.03.2004 issued by the 3rd respondent and the said WP.No.12986 of 2004 was dismissed by this Court on 24.01.2018 on the ground of delay and laches alone. Aggrieved by the aforesaid dismissal order of WP.No.12986 of 2004, the petitioner herein preferred an appeal in W.A.No.1845 of 2018 and the Division Bench of this Court, by Judgment dated 10.09.2018 dismissed the said writ appeal. Thereafter, the petitioner and others have filed another WP.No.34223 of 2018 before this Court by invoking Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The said WP.No.34223 of 2018 was dismissed as withdrawn, giving liberty to the petitioner herein to file fresh writ petition, since Section 24(2) of the Act, 2013 is not applicable in respect of the relief sought by the petitioner. Pursuant to the said liberty granted, this petition for the relief stated supra.



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3. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

4. Learned counsel for the petitioner, while reiterating the grounds raised, submitted that the entire property was acquired and the same was handed over to the beneficiaries as per the Act 31 of 1978. During the pendency of the case, the petitioner's sister, namely, Mrs.Pattammal passed away. Hence, the petitioner had been impleaded as a party in the writ Petition.

5. The present writ petition is filed challenging the notification issued in the year 1980. Though earlier, the petitioner's sister, namely, Pattammal filed a writ petition in W.P.No. 6134 of 1992 before this Court, the same was dismissed on 02.03.2000 on the ground of delay and laches and further the entire land was given to the beneficiaries under Act 31 of 1978. While that being so, the petitioner is only entitled for compensation as per the award passed in the year 1981, which has not been passed till date. Hence, learned counsel for the petitioner seeks fair compensation for the land



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so acquired.

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6. Per contra, learned Additional Government Pleader appearing for the respondents contended that the claim of the petitioner for fair compensation by invoking Act, 2013, has already been dismissed by this Court in W.P.No.12986 of 2004 and the same having been confirmed by the Division Bench of this Court in W.A.No.1845 of 2018 by judgment dated 10.09.2018, the only relief available to the petitioner is to seek for the amount lying the deposit on providing necessary documents relating to title. Therefore, he prays for dismissal of the writ petition.

7. Considering the facts and circumstances of the case and as similar issue has already been dealt with by this Court in the aforesaid Writ Petition/Writ Appeal which has since attained finality, this writ petition for the very same relief is not maintainable. However, insofar as the plea of the learned counsel for the petitioner for fair compensation for the acquisition of land in question, till date, as no compensation having been paid and the award amount is lying in revenue deposit, the amount could be disbursed in favour of the petitioner. Hence, this Court directs the respondents to disburse



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the compensation amount lying in Revenue Deposit, with interest to the petitioner, if he is otherwise entitled to as per law, within a period of six weeks from the date of receipt of a copy of this order, if not already disbursed to the petitioner herein .

8. With the above direction, the writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

28.10.2022

Index : Yes / No
Speaking Order : Yes / No
Neutral citation : Yes/No
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To

1. The District Collector, Salem District.
2. The Special Tahsildar (ADW)
Attur. Salem District.



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M.DHANDAPANI, J.

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