



W.P.(MD)No.14090 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 05.07.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.14090 of 2022

and

W.M.P.(MD)No.10056 of 2022

V.S.Arumugam Aasaari

... Petitioner

Vs.

- 1.The Additional Chief Secretary to Government,
Public Works PP2 Department,
Fort St.George, Chennai-9.**
- 2.The District Collector,
Tirunelveli District,
Tirunelveli.**
- 3.The Special Tahsildar (Land Acquisition),
Interlinking of Rivers (Unit-6),
Radhapuram at Nanguneri,
Tirunelveli District.**
- 4.The Executive Engineer,
Water Resources Department,
Special Project,
Tirunelveli.**
- 5.S.A.V.Constructions,
Rep. by its Founders,
Sahayam Nagar,**



W.P.(MD)No.14090 of 2022

Vadakkankulam-627 116,
Tirunelveli District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to forbear the respondents from digging any channel by entering into the property of the petitioner situated in S.No.68, comprised in Patta No.1638 at Muthumuthanmozhi Village, Thisayanvilai Taluk, Tirunelveli District without determining the compensation as contemplated under Section 26 and payment of compensation before taking possession as mandated under Section 38 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and consequently, direct the respondents to pay the compensation for the illegal act done by the respondents without following the Section 38 of the Act, 2013 within the time fixed by this Court.

For Petitioner : Mr.H.Arumugam

For R1 to R4 : Mr.M.Prakash
Additional Government Pleader

ORDER

Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for R1 to R4.



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2. The petition mentioned land belongs to the petitioner. Patta in respect of the same has been enclosed in the typed set of papers. To acquire the same, proceedings were issued under the Central Act 30 of 2013.

3. The petitioner's grievance is that without paying compensation, the land is sought to be taken over.

4. The learned counsel appearing for the petitioner draws my attention to Section 38 of the 2013 Act. It categorically states that the Collector shall take possession of the land after ensuring full payment of the compensation. In this case, admittedly, compensation has not been paid.

5. Therefore, the respondents cannot take possession of the petition mentioned land. After paying compensation, it is always open to the respondents to take possession of the petitioner's land and not till then.

6. The Writ Petition is allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

05.07.2022

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN,J.

rmi

To

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