



W.P(MD).No.6214 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.6214 of 2015

P.Mayandi

... Petitioner

-VS-

1. The Secretary,
Department of Municipal Administration and
Water Supply Department,
Fort. St. George,
Chennai.
2. The District Collector,
Madurai District,
Madurai.
3. The Assistant Director of Panchayat (Rural)
Office of the District Collector,
Madurai – 625 020.
4. The Tahsildar,
Thirumangalam Taluk,
Madurai District.
5. The Commissioner/ Block Development Officer,
Thirumangalam Panchayat Union,
Thirumangalam,
Madurai District.



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6. The Superintending Engineer,
State Highways Department,
Alagarkovil Main Road,
Madurai.
7. The Assistant Divisional Engineer,
State Highways Department,
Usilampatti,
Madurai District.
8. The Secretary,
Department of Rural Development
and Panchayat Raj,
Fort. St. George,
Chennai – 600 005.

.... Respondents

(R-8 is impleaded vide order of this
Court dated 29.11.2022 in M.P(MD)
No. 1 of 2015 in W.P(MD) No.6214 of 2015)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents to transfer and grant patta for the lands in Survey No.84/6A and 85/1A standing in the name of the fifth respondent in lieu of the unlawful road laid in the petitioner's property in Survey No.84/10B2 and 85/1B measuring 17.30 Ares in Kokkulam Village, Thirumangalam Taluk, Madurai District within time stipulated by this Court.

For Petitioner : Mr.M.Kannan



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For Respondents : Mr.B.Saravanan,
Additional Government Pleader

ORDER

The present Writ Petition has been filed seeking for a Mandamus directing the respondents to exchange the lands in Survey Nos.84/6A and 85/1A standing in the name of the fifth respondent to the name of the writ petitioner on the ground that the writ petitioner's private patta lands in Survey Nos.84/10B2 and 85/1B have been taken over by the fifth respondent herein for laying the road.

2. According to the petitioner, Survey Nos.84/10B2 and 85/1B are his private patta lands. Without resorting to acquisition proceedings under the land Acquisition Act, the fifth respondent has proceeded to lay a road. The learned Counsel for the petitioner also pointed out that the communication of the fourth respondent herein, dated 11.06.2013, was to the effect that the road has been laid in the private patta land of the writ petitioner. He further contended that adjacent to the road, Survey Nos.84/6A and 85/1A belonging



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to the fifth respondent are located. The petitioner is ready for exchanging the said lands in lieu of the lands in which roads that have been laid by the fifth respondent Panchayat Union. Since, the request of the petitioner has not been acceded, the present Writ Petition has been filed.

3. Per contra, the learned Counsel appearing for the fifth respondent has filed a counter affidavit that it is not possible to exchange the lands which is standing in the name of the fifth respondent herein. The only remedy available in the writ petitioner is to claim compensation for the road laid in the private patta land of the writ petitioner. Hence, he prayed for the dismissal of the Writ Petition.

4. I have carefully considered the submissions made on either side.

5. A perusal of the communication of the fourth respondent, dated 11.06.2013 and the counter affidavit filed by the fifth respondent clearly indicate that the fifth respondent has laid the road in the private patta land of the writ petitioner in Survey Nos. 84/10B2 and 85/1B. There is no dispute with regard to the same. Now, the only issue that arises for



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consideration, is whether the petitioner is entitled to receive compensation for the lands that have been taken over by the Government or whether the petitioner is entitled to get the same extent of land from the Government by way of exchange.

6. The respondents have filed a counter rejecting the request of the petitioner for the exchange of lands and they have specifically contended that only option for the writ petitioner is to seek for compensation. The question of seeking compensation will arise only in cases where the Government has acquired the lands by due to process of law.

7. In the present case, without acquisition, the fifth respondent has chosen to lay the roads in the private property of the writ petitioner. Hence, the fifth respondent has now to exercise the option. The fifth respondent can either initiate Acquisition Proceedings to acquire the private patta land of the writ petitioner or they can accept for exchange of the adjacent lands in Survey Nos.84/6A and 85/1A. If the fifth respondent is not agreeable to any one of the option, he has to remove the constructions laid in the private patta land of the writ petitioner.



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8. In view of the above said discussion, this Court has passes the following order:

The respondents herein are directed to consider the request of the writ petitioner for exchange of land or payment of compensation under the Central Act 30 of 2013. The said decision shall be taken on or before 31.03.2023. If no decision is taken before the said date, the road shall be removed and possession shall be handed over to the writ petitioner.

9. With the above said observation this Writ Petition stands allowed to the extent as stated above. There shall be no order as to costs.

Index : Yes / No
Internet : Yes / No
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