



W.P.No.24839 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2023

CORAM :

The HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.24839 of 2012
and M.P.No.1 of 2012

- 1.S.Ramalingam
- 2.M.P.Nagappan
- 3.A.K.Ramachdnaran
- 4.S.Jayaraman
- 5.V.Devaraj
- 6.S.Vazhmuni
- 7.R.Ramu
- 8.R.Sivaloganathan
- 9.S.Sankaran
- 10.P.Dhanasuvel
- 11.M.Lakshmanan
- 12.S.Veerappan
- 13.Arivasu
- 14.K.Anbu
- 15.Ramayee
- 16.Lakshmi
- 17.Kaliyaperumal
- 18.Vaidhyalingam
- 19.K.Inbavalli

.. Petitioners

VS

- 1.The District Collector,
Cuddalore District,
Cuddalore.
- 2.The Revenue Divisional Officer,
Chidambaram Taluk.
- 3.Ministry of Environment & Forests,
Through its Secretary,
Paryavnan Bhawan,
CGO Complex, Lodhi Road,
New Delhi – 110 003.



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4.I.L. & F.S.Tamil Nadu Power Company Ltd.,
B-Block, Navin's Presidium, 4th Floor,
103, Nelson Manikam Road,
Aminjikarai, Chennai – 600 029.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondents to comply with the National Rehabilitation and Resettlement Policy, 2007 in respect of the fourth respondent Thermal Power Plant Project taking into consideration the petitioner's lands and their displacements.

For Petitioners : Mr.K.Sakthivel

For Respondents : Mr.Veda Bagath Singh
Special Government Pleader
for R1 & R2

No appearance for R3

Mr.C.Manishankar,
Senior Counsel
for Mr.S.Arun Prasath
for R4

ORDER

Nineteen petitioners are before me. They allege that their lands which have been tabulated in the writ affidavit have been alienated forcibly in favour of the fourth respondent which is a private company, at the instance of the District Collector and the Secretary, Ministry of Environment, Forest and Climate / R1 and R3 respectively, with the false promise of providing employment and other rehabilitation / resettlement benefits. There is no specific



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contention in the writ affidavit as to whether the petitioners are in fact cultivating the lands which have been referred to and it is the specific contention of R4 that the lands are, in fact, dry lands.

2. In the counter affidavit filed on behalf of R2, there is also a specific averment at paragraph 11 to the effect that there is no migration of people living in Kothattai, Ariyakoshti and Villianallur villages from the period of acquisition till date and therefore there is no resettlement of the petitioners. In light of there being no clarity provided by the petitioners as to whether they are residents and whether the purchases in question have resulted in their displacement and consequent necessity to resettle and no contra material being placed in this regard by the petitioners, I hold in favour of the respondents on this point.

3. The ownership of the lands purchased as set out by the petitioners, is as follows:-

<i>S.No</i>	<i>Name of the petitioner</i>	<i>Educational qualification</i>	<i>Survey No</i>	<i>Extent of land in acres</i>
1	S.Ramalingam	7 th std	181/1	4.12
2	M.P.Nagappan	5 th std	230/3 220/3 215	0.47 0.72 7.25
3	S.Jayaraman	8 th std	175/13 182/1 181/3 176/6	0.96 4.25 2.75 0.15



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S.No	Name of the petitioner	Educational qualification	Survey No	Extent of land in acres
			175/6D	0.47
4	A.K.Ramachandran	5 th Std	175/12B 177/12A 177/3E 177/3B 211/2B 178/2B 178/1B 177/7B 177/6B 211/2A 178/2A 173/1B 175/12A 177/6A 177/7A 178/1A 173/1A	0.84 0.33 0.16 0.12 3.22 0.185 1.47 0.65 1.26 3.15 1.65 0.52 0.69 1.49 0.62 1.41 0.02
5	Devaraj	5 th Std	206/2	3.43
6	S.Vazhmuni	3 rd Std	194/6 194/7	0.59 0.45
7	R.Ramu	3 rd Std	185/1C 185/1F	0.31 0.57 ½
8	R.Sivaloganathan	10 th Std	42/1 42/2 42/3 51/1A 51/1B 51/1C	0.23 1.40 0.57 0.08 1.09 0.99
9	S.Sankaran	10 th Std	215 195/3G 195/3B 192/2A 197/3B 194/2A 1 194/1	9.44 0.36 0.06 0.18 0.05 0.16 0.07
10	P.Dhanusuvel	10 th Std	183/1 183/4 182/2	0.76 2.27 0.80
11	M.Lakshmanan	4 th Std	220/2 222/3 222/12 222/7 222/13 222/9 222/14 222/9	1.22 0.12 ½ 0.28 0.17 ¼ 0.26 0.12 0.24 0.24



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S.No	Name of the petitioner	Educational qualification	Survey No	Extent of land in acres
12	S.Veerappan	10 th Std	216 217/1 217/2	0.60 4.24 3.61
13	Arivasu	10 th Std	188/6 191/4 191/6 246/1	0.32 0.08 0.20 0.11 ½
14	K.Anbu	M.Sc Final	188/6 191/4 191/6 246/1	0.32 0.08 0.20 0.11
15	Ramayee	4 th Std ()	222/3	0.77 – ½
16	Lakshmi	3 rd Std ()	222/7	0.81 – ¾
17	Kaliyaperumal	5 th Std ()		
18	Vaidhyalingam	No education	221/4 222/5B 222/8 223/1	0.10 0.51 0.56 1.18
19	Inbavalli	No education	246/1 247/4B	0.22 – ½ 0.26

4. R4 has set out a tabulation dated 14.10.2022, executed by Mr.Arun Prasath, learned counsel for R4, on instructions that the lands as set out in the tabular column as against the names petitioners 9,12,15,16,17 and 18, have not been purchased by R4 Company.

5. Learned counsel for the petitioners is directed to obtain specific written instructions in this regard. If it is found that those petitioners have not alienated the lands as per tabulation to R4 this writ petition would not just be dismissed but the question of costs



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will be considered on confirmation being provided in this regard by R4. Likewise, if it is found that the statement of R4 is incorrect, R4 will be put to terms. In such circumstances, the order passed on merits qua the other petitioners will bind these petitioners as well.

6. Learned counsel for the petitioners submits that the purchase of lands, though by R4 admittedly, was at the instance of the State / official respondents / R1 – R3. Such purchase thus acquires the nature of land acquisition and must be construed to come under the cover of the National Rehabilitation and Resettlement Policy, 2007 (in short, 'Policy') with all benefits thereunder being made available to the petitioners.

7. He would allege that the petitioners were given a false impression that the project for setting up of the power plant was at the behest of the Government and that the State would be closely connected with its execution and implementation. In this regard, he draws attention to minutes of a public meeting held on 05.02.2010 wherein some of the petitioners have participated. The minutes of meeting records a question by Mr.Ramalingam, the first petitioner in this writ petition, specifically on this point, that is, whether the power project was implemented by the Government and the price



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fixed by the Government for purchase of the lands. His statement is in the following terms:-

"Mr.Ramalingam expressed that he and some of his villagers had sold the land to the Company at a price which is lower than the current price. He further expressed that they sold the land on the presumption that the project is implemented by Government and the price was fixed by Government. But, he understands that the land price is increased now and hence, he requested that the differential price between the current price and the price paid earlier be paid."

8. To his specific allegation that the District Collector has set out no response to his question as above, my attention has been drawn to the response of the District Collector though addressing similar query put forth by another participant. He states that the land purchased by R4 does not fall under compulsory acquisition of the Government and hence the question of fixation of price / rates by the Government did not arise.

9. This grievance of the petitioner's has thus been addressed by the respondents. That apart, the grievance expressed by R1 appears also that there is a vast difference between the price at which the land has been acquired in 2008 – 2009 from the petitioners, and thereafter in 2011 from other owners. It is an



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admitted position that the sale prices after the lapse of three years is significantly higher.

10. While the purchase from the petitioners was at the rate of Rs.4 lakh per acre, which according to learned counsel for R4 is three to four times, in excess of the guideline value, the averment in the writ affidavit, which has not really disputed by R4, is that the price had increased to about Rs.45 lakh per acre in 2011.

11. As a matter of common knowledge and market economics, there is bound to be increase in sale price over the years commensurate also with the increased awareness concerning the project. This increase cannot be attributed to malafides on the part of the vendors as the petitioners would urge.

12. The official respondents, the project in question not being a one which involves acquisition by the Government, have washed their hands off the transactions of purchase. The purchase of land is, no doubt, by a private party.

13. However, in a welfare state, it would be in the fitness of things for the official respondents, the District Revenue Officers and



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Collectors concerned, to assist the land owners in the public / peace hearings to obtain a fair price bearing in mind projected escalation. This is not to say that the fixation of price in the present case is vitiated in any way but only to notice that this may be a preferred mode of conduct in such projects.

14. The main plank of the petitioner's argument is that they are entitled to the benefits of the 2007 policy. For this purpose, my attention is specifically drawn to the objects set out in the preamble, between Clauses 1.1 – 1.7. The aim of the policy is to minimize large scale displacement, as far as possible.

15. The term 'displacement' should include resettlement of, or involuntary displacement of 400 or more families enmasse. No doubt, in the present case, the condition mandating the number of persons involved may be satisfied. However the fact remains that the petitioners have not established the fact of displacement, either involuntary or otherwise.

16. More fundamentally the policy is in itself inapplicable as the lands purchased do not fall under the definition of 'acquisitions' *'being acquisition of land under the Land Acquisition Act, 1894 as*



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amended from time to time or any other law of the Union or a State for the time being in force'.

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17. An affected family has been defined under Section 3.1(b) that reads as follows:-

"(b) affected family means:

(i) a family whose primary place of residence or other property or source of livelihood is adversely affected by the acquisition of land for a project or involuntary displacement for any other reason; or

(ii) any tenure holder, tenant, lessee or owner of other property, who on account of acquisition of land (including plot in the abadi or other property) in the affected area or otherwise, has been involuntarily displaced from such land or other property; or

(iii) any agricultural or non-agricultural labourer, landless person (not having homestead land, agricultural land, or either homestead or agricultural land), rural artisan, small trader or self-employed person; who has been residing or engaged in any trade, business, occupation or vocation continuously for a period of not less than three years preceding the date of declaration of the affected area, and who has been deprived of earning his livelihood or alienated wholly or substantially from the main source of his trade, business, occupation or vocation because of the acquisition of land in the affected area or being involuntarily displaced for any other reason;"

18. Thus for a family to be 'affected' it has necessarily to be involuntary displaced which condition, as I have noted earlier, is not



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satisfied in the present case. That apart, clause (b) refers to 'acquisition' which condition also does not stand satisfied since the purchases in question constitute private acquisitions and not by the State.

19. R4 would be at pains to demonstrate that it has taken more than sufficient measures to ensure the welfare of the residents in that area / persons from whom the purchases were made. They were not just adequately compensated monetarily, but their interests have also taken care of, by providing various welfare measures.

20. In this regard paragraphs 9 and 10 of the counter read as follows:-

"9. I state that as part of Corporate Social Responsibility, the Company had established a "Rural women Apparel Training Institute" in the project area and trained about 200 women selected from the 'Women Self Help Groups' in the first batch from the villages surrounding the project area. Also, about 100 trained women have been gainfully engaged in the newly set up apparel manufacturing facility created by the company with 70 machines. The company plans to train about 200 women in coming batches and provide them employment opportunities in apparel manufacturing facility created as above. This improves the livelihood of people who are living in the villages surrounding project area. In order to impart vocational training to the



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students and youth for getting an opportunity in employment and take part in construction activity of the project, the company had tied up with two Industrial Training Institutes in Cuddalore and sponsored students in welding trade. With this, the students and youth are getting free vocational training and enhancing their skills.

10. I state that the 4th Respondent as part of their CSR has adopted Karikuppam, Kottatai, Ariyagoshti, K.Panchankuppam, V.Panchankuppam, Pudhupettai, Pudhukuppam, Pudhuchathiram, Chinoor Indira Nagar & Samiyarpettai villages and has provided CSR activities to these villages like Fishermen endowment, Educational activities, Health Care activities. The 4th Respondent as part of their CSR activity has provided computers to Ariyagoshti government school. That apart they have also provided Covid Kit and rice bags to the villagers during the pandemic. The 4th Respondent has also involved in the green belt development as part of their CSR activity."

21. R4 has been generating electricity in two units by virtue of Power Purchase Agreements executed with the State and also draws attention to the fact that it has been augmenting the State's power requirement.

22. That apart, O.S.No.12 of 2011 has been filed by two associations viz., M/s.Parangipettai Ondirum IL & FS Power Niruvanathirkku Nilam Koduthor Nalasangam and M/s. Vivasayigal Padugappu Peravai that came to be settled by way of a compromise



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decreed recording Memo of Agreement executed on 18.03.2011. In terms of the MOA, a sum of Rs.1 crore has been remitted by R4 as honouring its Corporate Social Responsibilities in favour of the Nalasangam towards various welfare measures. R4 points out, in this context, that petitioners 1,2,4,7 and 14 form part of the compromise decree and has placed the compromise decree as well as the memorandum settlement as part of the typed-set.

23. In light of the discussion as above, I am of the view that the mandamus as sought for is not liable to be granted. This writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

24. List on 28.02.2023 for production of affidavit as set out in paragraph 5.

21.02.2023

Index:Yes/No
Neutral Citation:Yes
ssm



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