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W.P.No.13666 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2023

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.13666 of 2023

G.Pachaiyapan

.. Petitioner

Vs

1.The District Collector,
Krishnagiri District,
Krishnagiri.

2.The Land Acquisition Officer/
The Revenue Divisional Officer,
Krishnagiri.

3.The Special Tahshildar,
Ennekol Dam Right & Left Irrigation Canal,
Krishnagiri.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the respondents to implement the "Ennekol Irrigation canal Project" in alternative way between the villages via Ennekolpudur, Kurupurapalli, Puliyancheri, Beemandapalli and Kuppachiparai instead of between the villages via (i) Ennekolpudur, (ii) Vinayagapuram, (iii) Potarapalli, (iv) Kurupurapalli, (v) Polupalli, (vi) Pillanakuppam, (vii) Thalavaypalli, (viii) Chinnakuntharapalli, (ix) Samanthamalai, (x) Kuttur, (xi) Kallakurikki by without affecting the agricultural lands.



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For the Petitioner : Mr.R.Sankarasubbu
For the Respondents : Mr.P.Muthukumar
State Government Pleader

ORDER

(Order of the court was made by the Hon'ble Acting Chief Justice)

G.Pachaiyappan, son of Govinthappan, a resident of Gundur Village, Samanthamalai Post, Krishnagiri District, has filed this writ petition seeking issuance of a writ of mandamus directing the respondents to implement the "Ennekol Irrigation Canal Project" in alternative way between the villages via Ennekolpudur, Kurupurapalli, Puliyancheri, Beemandapalli and Kuppachiparai instead of the route between the villages via (i) Ennekolpudur, (ii) Vinayagapuram, (iii) Potarapalli, (iv) Kuruparapalli, (v) Polupalli, (vi) Pillanakuppam, (vii) Thalavaypalli, (viii) Chinnakuntharapalli, (ix) Samanthamalai, (x) Kuttur, (xi) Kallakurikki, without affecting the agricultural lands.

2. Mr.R.Sankarasubbu, learned counsel for the petitioner, submitted that the first respondent notified that the State



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Government granted permission to formulate a scheme to get the surplus water which has been collected in the Thenpennai River during the flood period from the "Ennekol Dam" by setting up irrigation canals on its right and left sides and bringing the same to the drought lakes situated in Krishnagiri and Dharmapuri and, in this regard, the first respondent initiated land acquisition proceedings.

3. Learned counsel for the petitioner further submitted that the first respondent admitted in the notification issued that "social impact assessment" was not done as contemplated under Section 6(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Though the first respondent stated that environment impact assessment was carried out and, hence, there is no necessity to conduct social impact assessment, learned counsel pleaded that the said stand runs counter to Section 6(2) of the Act.

4. Learned counsel for the petitioner also submitted that if the



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alternative route as suggested by the petitioner and the farmers is accepted, no prejudice would be caused to anyone and this alternative route, in fact, reduces the length of the irrigation canal from 25 km to 8.5 km and thereby saves public money and manpower. As the objections raised by the general public and farmers were not considered by the respondent authorities, the petitioner has been advised to file this writ petition.

5. We do not find any merits in the aforesaid arguments advanced by learned counsel for the petitioner, for the following reasons.

6. Firstly, although the petitioner has stated that the acquisition proceedings are bad in law in view of non-conducting of social impact assessment under Section 6(2) of the Act, the petitioner, for the reasons best known to him, has not chosen to challenge the acquisition proceedings till date.

7. Secondly, when the respondent authorities are in the



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process of implementing “Ennekol Irrigation Canal Project”, which is in the larger interest of the public, after obtaining the opinion of the technical experts as to the alignment of the route of the canal, the Courts exercising jurisdiction under Article 226 of the Constitution of India, which is not equipped to instruct the authorities how to proceed with the laying of canal, should not sit in appeal over the view expressed by the experts. Also, the contention of the petitioner that canal should take the shortest route is basically incorrect. An irrigation canal, not only benefits by supplying water directly, but also benefits all the lands through which it travels by way of seepage, spillage and ground water percolation. Therefore, taking into consideration the maximum benefit and the geographical conditions on ground to ensure flow of the water, if the experts design its course, the Court cannot interfere with the same. It is not for this court to direct the respondent authorities which lands have to be acquired for the purpose of implementing the project and which lands should not be acquired.

For the foregoing reasons, the writ petition is dismissed. There



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will be no order as to costs. Consequently, W.M.P.No.13338 of 2023 is closed.

(T.R., ACJ.) (D.B.C., J.)
28.04.2023

Index : Yes
Neutral Citation : Yes
sasi

To:

- 1.The District Collector,
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THE HON'BLE ACTING CHIEF JUSTICE
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