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W.P.18485 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2023

CORAM : JUSTICE N.SESHASAYEE

W.P.18485 of 2018

V.K.Periyasamy

.... Petitioner

Vs

1.The District Collector
Salem District
Salem.

2.The Special Tahsildar
Adi Dravidar Welfare
Sankari Taluk
Salem District.

3.N.Kailasam

4.P.Palaniappan @ Thangam

..... Respondents

[Respondents 3 & 4 impleaded vide order dated
08.11.2023 in WMP.No.6312 of 2020 in
W.P.No.18485 of 2018]

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus to direct the first respondent to take appropriate action to lay the pathway for Arunthathiyars by considering the petitioner's representation dated 07.06.2018 as per the notification dated 30.12.1998.



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W.P.18485 of 2018

For Petitioner : Mr.R.Jayaprakash

For Respondents : Mr.M.Bindran
Addl. Govt Pleader for R1 & R2
Mr.S.Viswanathan
for M/s.Dass and Viswa Associates
for R3 & R4

ORDER

The petitioner is the owner of a plot of land in Sy.No.329/2B and Sy.No.331/1 of Vaikuntham Village in Sankari Taluk, Salem District. Sometime in 1998, these properties along with few others, which includes the properties of the respondents 3 and 4, who are now impleaded were acquired under Section 4 of the Tamil Nadu Acquisition of Lands for Harijan Welfare Act, 1978. This acquisition was challenged by the respondents 3 and 4 herein along with few others in W.P.No.5058 of 1999. This Court, vide its order dated 02.11.2001, quashed the said notification. The petitioner did not choose to challenge the said notification. As such, the petitioner's properties after acquisition, now continues to remain with the authorities. The purpose for which the properties in Sy.No.329/2B and Sy.No.331/1 were acquired was to provide a pathway for Arunthathiyar settlement. However, despite couple of decades passing by, the Government has not laid a road for Arunthathiyar settlement through the properties of the petitioner.



W.P.18485 of 2018

2. The learned counsel for the petitioner submitted that since his properties were acquired for laying a road, it is obligatory on the part of the authorities to lay a road for Arunthathiyar settlement. The Arunthathiyar settlement of Mettukaadu is on the far eastern side and the petitioner's properties are in the middle portion, and it still has to reach the main road on the west. But that bit of property which is essential for linking the main road on the west with the rest of properties acquired had been quashed by this Court. However, the petitioner is aggrieved that despite acquiring the lands, no road was laid which is a breach of promise by the Government.

3. Per contra, the learned Additional Government Pleader appearing for the State submitted that in view of the order passed by this Court in W.P.No.5058 of 1999, the authorities have chosen an alternate route to lay the pathway, and it is proposed to be laid in Sy.Nos.375/2 and 376. The said statement is recorded.

4. The counsel for the petitioner however would submit that the properties in Sy.Nos.375/2 and 376 have been classified as 'odai/channel' and in terms of the judgment in ***T.K.Shanmugam Vs State of Tamil Nadu*** [2015 (6) CTC 369], a water body cannot be used for any other purpose. This appears to



W.P.18485 of 2018

have been overlooked by the District Collector, the first respondent.

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5. In view of the statements made at the Bar, and given the legal position as declared by the ratio in ***T.K.Shanmugam case***, it is now incumbent on the part of the District Collector to ensure that the road is laid within the framework of law, and for which purpose, it now requires the District Collector to consider the representation of the petitioner within a period of three months from the date of receipt of a copy of this order.

6. The writ petition is accordingly disposed of . No costs.

08.11.2023

Index : Yes / No
Speaking order / Non-speaking order
ds

To:

1.The District Collector
Salem District
Salem.

2.The Special Tahsildar
Adi Dravidar Welfare
Sankari Taluk
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W.P.18485 of 2018

N.SESHASAYEE.J.,

ds

W.P.18485 of 2018

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