



W.P.No.28875 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.28875 of 2023

1.S.Elumalai
2.A.Pathamanaban
3.P.Gokulnath
4.E.Kannan
5.K.Mohana
6.N.Murthy ... Petitioners
(Petitioners 2 to 6 are represented
by their Power of Attorney S.Elumalai)
/vs/

1.The Managing Director,
Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam, Chennai – 600 083.

2.The Special Tahsildar,
Land Acquisition – Unit 3,
Tamil Nadu Housing Board,
C.M.D.A. Building Campus,
Koyambedu, Chennai – 600 107. ... Respondents

PRAYER : The writ petition has been filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing the second respondent to expeditiously pay the reasonable and adequate compensation forthwith to the petitioners calculating the same with present market value as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014 with respect to their share over the acquired lands in survey



W.P.No.28875 of 2023

Nos.352/1B, 352/4, 353/1 & 353/2, Kodambakkam Village Jafferkhanpet, Chennai District totally measuring an extent of 4.87 Acres along with reasonable interest at the rate of 12% per annum from the date on which the possession was taken from the petitioner.

For Petitioners ... Mr.S.C.Pratheep Ashok Kumar

For Respondent ... Mr.Ravindranath Jeyapal
No.1 Standing Counsel

For Respondent ... Mr.P.Gurunathan
No.2 Additional Government Pleader

ORDER

The writ petition has been filed to issue a writ of Mandamus directing the second respondent to expeditiously pay the reasonable and adequate compensation forthwith to the petitioners, calculating the same at present market value as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014 with respect to their share over the acquired lands in Survey Nos.352/1B, 352/4, 353/1 & 353/2, Kodambakkam Village Jafferkhanpet, Chennai District, totally measuring an extent of 4.87 Acres, along with reasonable interest at the rate of 12% per annum from the date on which the possession was taken from the petitioner.



W.P.No.28875 of 2023

WEB COPY

2.The learned counsel appearing for the petitioners submitted that the respondents acquired the land of the petitioners in Survey Nos.353/1 3.30 Acres, 353/2 1 Acre, 352/1B 0.59 cents and 352/4 1.68 cents, respectively for the purpose of development of project, namely The West Madras Neighbourhood Project. One Ganesa Naicker, who is the brother of the petitioners' father, received the compensation amount for acquisition of the lands in Survey Nos.353/1 and 353/2. Even the impugned order itself states that they had paid the amount in respect of Survey Nos. 353/1 and 353/2 to one Ganesa Naicker and in respect of Survey Nos.352/1B, & 352/4, they have not paid the amount of compensation either to the father of the petitioners or to the legal heirs of Velu Naicker, who is the grandfather of the petitioners. Therefore, as per the new Act, they are entitled to the said amount. Hence, the present writ petition has been filed. Further, he submitted that when the matter came up for hearing on an earlier occasion, this Court orally directed the respondents to produce the original acknowledgment to show as to whether the owner of the lands had received the said amount.



W.P.No.28875 of 2023

WEB COPY

3.Today, the learned Additional Government Pleader appearing for the second respondent produced the records, which shows receipt of compensation amount only regarding Survey Nos.353/1 and 353/2 and the petitioners also have not disputed that the brother of the petitioners' father had already received the amount. Now, the dispute is with regard to Survey Nos.352/1B and 352/4, in respect of which, there was some mortgage. Therefore, they deposited the amount originally before the State Bank of India and subsequently, the amount was transferred to the Treasury account.

4.It is settled position of law and time and again, the Hon'ble Supreme Court and even this Court by order dated 15.09.2020 in W.P.Nos.10912, 10920 & 11535/2020 and WMP.Nos.13259, 13269 & 14103/2020 (M.Palanisamy and others Vs. The State of Tamil Nadu rep. by its Secretary to Government, Housing and Urban Development Department, Secretariat, Fort St. George, Chennai 600 009 and four others), laid down the mode of tendering the amount of compensation to



W.P.No.28875 of 2023

the land owners and in the event of their refusal to receive the same, the procedure as to how it has to be tendered and how it has to be deposited is mentioned. Therefore, the respondents have to prove that the amount was properly tendered and that the same was refused by the land owners, and therefore, the amount was deposited before the Civil Court. Even assuming that there is a dispute regarding title or interest over the property or in due course, it was felt that the land acquisition was unnecessary, as the case may be, then the matter can be referred to the Civil Court to resolve the dispute between rival private parties. However, in this case, the respondents are not in a position to prove that they had properly tendered the amount to the land owners, from whom, the lands were acquired and that they had refused to receive the same and subsequently, it was deposited before the Civil Court. Time and again, this Court has clearly stated that mere deposit of the amount either in the Treasury or in any other account, except the civil Court, is not proper tender of the payment of compensation. Therefore, under these circumstances, the acquisition regarding Survey Nos.352/1B and 352/4 had lapsed, in view of Section 24[2] of the Right to Fair Compensation and Transparency in Land



W.P.No.28875 of 2023

Acquisition, Rehabilitation and Resettlement Act, 2013 and therefore, the respondents are directed to comply with the said provisions of law on merits and in accordance with the law, within a period of three weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of. No costs.

Index : Yes/No

08.11.2023

Speaking order : Yes/No

Neutral case citation: Yes/No

sms

To

- 1.The Managing Director,
Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam, Chennai – 600 083.
- 2.The Special Tahsildar,
Land Acquisition – Unit 3,
Tamil Nadu Housing Board,
C.M.D.A. Building Campus,
Koyambedu, Chennai – 600 107.



WEB COPY



W.P.No.28875 of 2023

P.VELMURUGAN,J.

sms

W.P.No.28875 of 2023

08.11.2023