

W.P.Nos.29117 and 29120

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved On	24.11.2023
Orders Pronounced On	01.12.2023

CORAM:

THE HON'BLE MR JUSTICE P. VELMURUGAN

W.P.Nos.29117 and 29120 of 2023

1.C.Rathinavelu ...Petitioner in W.P.No.29117 of 2023.
2.G.Rajkumar ...Petitioner in W.P.No.29120 of 2023.

Versus

1.Union of India, Rep.by
Secretary to Government (Revenue),
Government of Pondicherry.

2.The District Collector,
Karaikal District.

3.Sub Collector (Revenue) cum
Land Acquisition Officer,
Karaikal District. .. Respondents in both W.Ps.

Common Prayer: Writ Petitions have been filed under Article 226 of the Constitution of India to issue a writ of Mandamus or any other writ of like nature directing the third respondents to pay the proportionate compensation amount for the remaining extent of 00 Hectare 81 Ares 09 Centiare within a stipulated period.

In both W.Ps.

For Petitioners

: Mr.U.Karunakaran

For Respondents

: Mr.Ramaswamy Meyappan
Government Advocate
Pondicherry



COMMON ORDER

WEB COPY The Petitioners have filed these writ petitions for issuance of writ of Mandamus directing the 3rd Respondent to pay the proportionate compensation amount for the remaining extent of 00 Hectare 81Ares 09 Centiare within a stipulated period.

2.The case of the writ petitioner, is that the writ petitioners are the joint owners of the land comprised in R.S.No:221/2, O.S.No:98/7 measuring an extent of 01 Hectare 15Ares 37 Centiare as legal heirs of one Singaravelumudaliar. The said Singaravelumudaliar got the property under a registered Partition Deed dated 18.03.1970. The brother of the Petitioner, i.e., Singaravelumudaliar died unmarried and therefore, the Petitioner and his brothers and sisters inherited his properties including the above said property. The Land Acquisition Officer has issued a Notification dated 29.12.2005 to acquire the land for the purpose of establishing Models for Accelerated Regional Growth (in short 'MARG' Port) at Vanchoor Revenue Village, Karaikal District. In the said notification the land comprised in R.S.No.221/2 measuring 10 Hectare 89 Ares 50 Centiare belonged to 10 various owners including the brother of the Petitioner i.e., Singaravelumudaliar. Each legal heirs of Singaravelumudaliar is entitled to 1/9th share of the land acquired, which stood in the name of Singaravelumudaliar under registered Sale Deeds dated



06.03.2006 and 31.10.2006. The sisters released their 5/9th shares in favour of the writ petitioners and their brothers, Kumaravelu and Rajkumar and Sister Vasanthakumari. The Writ Petitioners also furnished all details regarding the right of the acquired land. Since no compensation was given to him, he asked for the particulars of the payment of compensation for the land acquisition under S.No.221/2 under the Right To Information Act, 2005. The second respondent furnished the details of payment of compensation on 11.04.2008 which reveals that the Deputy Collector (Revenue) – cum - Land Acquisition Officer, Karaikal, without giving attention, negligently disbursed the compensation to a vague owner, one Mrs.G.Shanthi for an extent of 2 Hectare 05 Ares 05 Centiare and stopped payment of compensation to the writ petitioners and his brothers for the land measuring 00 Hectare 81 Ares 09 Centiare and has deposited the compensation in the Court for an extent of 00 Hectares 34 Ares 28 Centiare. The Petitioners and their brothers and sisters produced the Legal Heirship certificate and the compensation for 00 Hectares 34 Ares and 28 Centiare had been deposited. The writ petitioners, along with their brothers, filed a claim petition for disbursement of the deposited amount and the same was allowed by Award dated 26.02.2018 made in LAOP.No.63 of 2017. The Land Acquisition Officer himself retained the compensation with him in respect of R.S.No:221/2 only with an extent of 00 Hectare 81 Ares 09 Centiare without assigning any reason despite the Petitioners made several representations dated



23.04.2008, 26.06.2008, 09.07.2008, 05.08.2009, 27.08.2018 and 16.09.2021, for which the respondents neither replied nor paid the compensation to the petitioner.

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The Land Acquisition Officer is liable to pay compensation along with interest from the date of Notification to the writ petitioners. The Writ Petitioners also filed objections and filed petition to enhance the compensation to the third respondent, who neither fixed the enhanced compensation, nor referred the matter with the Court. Therefore, the third respondent has to pay the proportionate compensation amount for the remaining extent of 00 Hectare 81 Ares 09 Centiare within a stipulated period of time.

3.The case of the respondents is that they admit the acquisition and Notification. However, they denied the averments made in the affidavit. The main contention of the respondents is that the writ petitioners and his brothers have not given all the details regarding the entitlement to acquire the land of deceased/ Singaravelumudaliar. The subject land comprised in R.S.No:221/2 of total extent of 10 Hectare 89 Ares 50 Centiare correlates to 10 Cadastral/Old Survey Numbers in which one Cadastral/Old Survey Number is 98 Bis/7 of extent 01 Hectare 15 Ares 37 Centiare. The writ petitioners' claim is the right of ownership of their property with reference to the Matrice copy issued in the name of his father Govindasamy@Govindarasu Mudaliar. Whereas the said Cadastral Survey Number



98 Bis/7 is not found in the Matrice. The four boundaries of the subject property, as mentioned in the parent document of the sale deed, would not match that of the description of the Partition Deed. In view of the several mis-matches, the right of claim of the writ petitioners, their brothers and sisters could not be processed. Hence, their claim for compensation could not be proceed with. The Deputy Collector (Revenue) – cum – Land Acquisition Officer, Karaikal after, due attention, disbursed the compensation to the rightful owner and though they paid some compensation, one of the owners of the land, one Mrs.G.Shanthi of an extent of 2 Hectare 05 Ares 05 Centiare. Later it was found that the steps have been taken to recover the excess payment and the respondents have not stopped the compensation of the writ petitioners and because of that they paid the excess to one Mrs.G.Shanthi. Though the transfer of title was from the registered holders till the claimants were paid but she was paid the compensation amount of Rs.10,49,472/- corresponding to the extent of 02 Hectare 05 Ares 05 Centiare. However, they later found that the said Mrs.G.Shanthi was not even having title of an extent of 02 Hectare 05 Ares 05 Centiare but they have taken steps to recover the excess amount which has nothing to do with writ petitioners' claim.

4.The sale deeds were executed during the French Rule in Pondicherry. The details of transfer of ownership of whole property during the French Rule, would not



reflect in the Encumbrance Certificate. Further, the Encumbrance Certificates are issued in the Officer of the Sub-Registrar in reference to Re-Survey Numbers (R.S.No's) from the year 1969 onwards only. The link is from the registered holders till the claimants were found established. In the light of the same the claim in the above cases was found and considered for payment of compensation at the time of processing and the latter came to end as such, the payment of compensation paid to Mrs.G.Shanthi is not in order. Soon after the discrepancy was learnt in the process of Revenue Recovery, the amount of compensation paid to Mrs.G.Shanthi has been initiated. Therefore, due to the above said reasons the excess payment was made to Mrs.G.Shanthi. Now, however the proceedings have been initiated to recover the same. The Respondents have paid the compensation to the land owners and interested persons, in respect of the field R.S.No.221/2, the balance amount of Rs.3,65,076/- is available which corresponds to an extent of 0 Hectare 34 Ares 28 Centiare. The said amount was deposited in the District Court, Karaikal with reference to Section 30 of the the Land Acquisition Act, 1894 and the writ petitioners have also filed a claim application and also got the amount. After having paid the compensation amount to the claimants in respect of Survey No.221/2, balance amount of Rs.3,65,076/- was paid to the writ petitioners through Court under Section 30 of the Land Acquisition Act. The above Land Acquisition Officer did not retain the amount with him for the above said acquired lands. The claim petition filed by



the writ petitioners was not found in order and is not entitled to get the compensation.

5. Learned Counsel for the Petitioners submitted that the land was acquired for setting up of MARG Port at Vanchoor Revenue Village, Karaikal District, in which the land comprised in R.S.No.221/2, having total extent of 10 Hectare 89 Ares 50 Centiare and Patta Number belongs to 12 owners and in which with respect to the compensation was paid for a sum of Rs.10,49,472/- the remaining land owners have not been paid the compensation. They have deposited the amount before the City Court for an extent of 00 Hectare 34 Ares 28 Centiare and that amount was taken by the writ petitioners. The case of the writ petitioners is that they have not paid the remaining extent of 00 Hectare 81 Ares and 9 Centiare. The writ petitioners came to know about the enquiry from Right to Information from which it is found that the respondents paid compensation to a fake owner one Mrs.G.Shanthi with an extent of 02 Hectare 05 Ares 05 Centiare, but Mrs.G.Shanthi was paid more than that amount equivalent to land acquired from her. In order to escape from them, the Respondents have denied the payment to the writ petitioners. The writ petitioners, his brothers and his sister. Mrs.Vasanth Kumari alone was entitled for the wet-land comprised in Survey No.221/2, O.S.No:98/5 Bis, measuring an extent of 01 Hectare 15 Ares 37 Centiare which was under acquisition. The 3rd Respondent ought to have paid the Award amount to the petitioners, to her brothers and sisters for the wet-land



comprised in Survey No.221/2, OS No.98/7 Mas, with an extent of 1 Hectare 15 Ares 13 Centiare. But whereas they were not paid for the said acquired land and it was admitted by the respondents in their counter that only an amount of Rs.3,65,076/- was paid corresponding to an extent of 00 Hectare 34 Ares 28 Centiare alone and neither they have paid the amount for the remaining extent of 0 Hectare 81 Ares 9 Centiare in order to state inside the Court they have got the right and title of an extent of 0 Hectare 81 Ares 09 Centiare. Even from the counter filed by them, and the information given under the Right to Information Act, 2005 the fact reveals that the petitioners were not paid compensation for the lands which were acquired by the respondents. Therefore, the respondents are liable to pay the compensation. However, the learned counsel for the first and second respondents submitted that they have not produced the details of documents as required by the respondents and if they produce the said document before the Officers, the Officers will consider the same and as far as the excess payment made to the Mrs.G.Shanthi is concerned, they have taken steps to recover and the respondents have not with-held any of the amount for the acquired land. The Petitioners, brothers and sisters, instead of producing the relevant details, they gave the representation and therefore, the writ petition is liable to be dismissed.

6. Heard both sides and perused all the available materials on record.

7. Admittedly, the land comprised in R.S.No.221/2 at Vanchoor Revenue



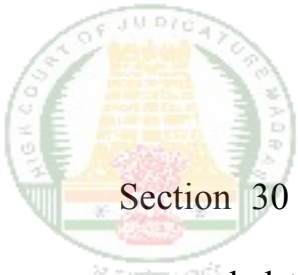
Village was acquired for the purpose of setting up of MARG Port and the

Respondents also admitted that the Notification under Section 4 (1) of the Land Acquisition Act, 1894 was published in the Official Gazette No.7 dated 19.01.2006.

The Land Acquisition proceedings were initiated by invoking “Urgency Clause” under Section 17 of the Land Acquisition Act, 1894. Dispensing with the enquiry under Section 5-A of the Land Acquisition Act, 1894. Consequently, the “Declaration” under Section 6 of the aforesaid Act was not issued by the Department of Revenue and Disaster Management, vide G.O.Ms.No.166 dated 29.12.2005 and the same was published in the Official Gazette No.166 dated 19.01.2006 and also they have also admitted the total 142 Hectare 84 Ares 18 Centiare and the lands were notified and as far as R.S.No.221/2 measuring 10 Hectare 89 Ares 50 Centiare are concerned, they were acquired which belongs to 10 owners including the Petitioners, his brothers and whereas, the owners have been mentioned. The Petitioners are entitled only 01 Hectare 15 Ares 37 Centiare. The Petitioners were paid compensation only to an extent of 01 Hectare 15 Ares 37 Centiare. The petitioners were paid compensation only to an extent of 0 Hectare 34 Ares 28 Centiare alone was deposited before the District Court, Karaikal and the petitioners and the respondents are the same and they have not paid for the balance amount of Rs.3,65,076/-. The Petitioners and Respondents admitted they have not been paid the amount for an extent of 0 Hectare 81 Ares 09 Centiare but however they have stated



that the Petitioners have not produced the details of the documents for their entitlements and there is mis-matching with regard to the documents from French Period till date, therefore, they did not pay the same to the Petitioners and have not co-operated to pay the same. However, the fact remains that the respondents have acquired the land in R.S.No.221/2 with a total extent of 10 Hectare 89 Ares 50 Centiare. The answer obtained from the RTI enquiry also reveals the same. Once the Respondents have admitted that they deposit of a small amount for 0 Hectare 34 Ares 28 Centiare that the Petitioners and also the owners of the property have admitted before the court and referred they got the money in ALOP No.63 of 2017. The Petitioners ought to have deposited the balance amount before the Court and ought to have referred the matter to the Court under Section 30 of the above said Land Acquisition Act to decide the title and to get the amount. In this case, the respondents neither paid the amount to the Petitioners nor they referred the matter to the Court to decide the title under Section 30 of the aforesaid Act. Even further, the respondents themselves have admitted that they have paid some excess amount to one fake owner Mrs.G.Shanthi, for more than the actual land acquired from her and they have taken steps to refer the matter that is between Mrs.G.Shanthi and the respondents. But however, the petitioners made representation before the respondents but the respondents ought to have referred the matter to the Civil Court/Land Acquisition Tribunal for enhancement of amount and also with regard to the title dispute under



Section 30 of the said Act. Instead of doing the same they have not properly responded to the petitioners. The contention of the respondents are not acceptable.

Therefore, the respondents have also admitted that they have made some excess amount to Mrs.G.Shanthi and the respondents have not paid the entire amount to the rightful owner in R.S.No.221/2.

8.Therefore, the respondents are directed to refer the matter to the Land Acquisition Tribunal and deposit the amount of an extent of 00 Hectare 81 Ares 09 Centiare before the Tribunal immediately within a period of four (4) weeks and also intimate the same to the petitioners and it is up to the petitioners that on the receipt of the same, the petitioners are at liberty to workout their remedy before the Land Acquisition Tribunal. These Writ Petitions stand allowed in the above said discussions and directions. No Costs.

01.12.2023

Index : Yes/No
Speaking : Yes/No
Neutral Citation Case : Yes/No
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W.P.Nos.29117 and 29120 -----

P. VELMURUGAN.J.,

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To:

- 1.Union of India, Rep.by
Secretary to Government (Revenue),
Government of Pondicherry.
- 2.The District Collector,
Karaikal District.
- 3.Sub Collector (Revenue) cum
Land Acquisition Officer,
Karaikal District.

Pre-Delivery Order in
W.P.Nos.29117 and 29120 of 2023

Order Pronounced On

01.12.2023