



W.P(MD)No.87 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.87 of 2022

and

W.M.P(MD) No.21225 of 2022

A/M.Sri Mamarthu Mahamariyamman Kovil,
by its Managing Trustee, R.Kamaraj,
Amman Kovil Street,
Aduthurai,
Thiruvidaimaruthur Taluka,
Thanjavur District.

... Petitioner

Vs.

- 1.Tamil Nadu State By
The District Collector,
Thanjavur,
District Collectorate Office Thanjavur,
Thanjavur.
- 2.The Authorized Officer / Special District Revenue Officer,
Land Acquisition,
O/o. the Special District Revenue Officer,
Chennai - Kanyakumari Industrial Corridor Project,
Ishwarya Nagar - Near Koranattu Karuppur Rountana,
Koranattu Karuppur,
Kumbakonam Taluka.



W.P(MD)No.87 of 2022

3.The Project Director

Chennai - Kanyakumari Industrial Corridor Project,
No.76, Sardar Patel Road,
C.K.I.C.P. Complex,
HRS Campus, Guindy,
Chennai - 600 025.

4.The Joint Commissioner,

Mayiladuthurai,
Hindu Religious and Charitable Endowments Department,
Mayiladuthurai.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the second respondent to consider the petitioner's representation dated 16.08.2021 in respect of the Lands which were acquired under Na.Ka.270/2019 A2 dated 02.07.2021 in respect of the Land situated in Thanjavur District Thiruvidadaimaruthur Taluk, Maruthuvakudi-1 village in R.S.Survey No.1) 122/2 - 100 Sq.m, 2) 122/12 - 7 Sq.m, 3).122/9 - 6 Sq.m, 4) 122/8 - 6 Sq.m 5) 122/7 - 6 Sq.m, 6) 430/13 - 8 Sq.m, 7) 430/12 - 5 Sq.m, 8) 430/8 - 12 Sq.m 9) 430/5 - 12 Sq.m 10) 430/4 - 6 Sq.m 11) 430/1 - 6 Sq.m, Total = 174 Sq.m which is acquired for Chennai - Kanyakumari Industrial Corridor Project - Kumbakonam - Sirkali Road Expansion.



W.P(MD)No.87 of 2022

For Petitioners : Mr.M.V.Santharaman

For Respondents : Mr.N.Muthu Vijayan - for R1, & R2
Special Government Pleader

Mr.M.Senthil Ayyanar - for R4
Government Advocate

Mr.S.Sankarapandian - for R3
for Mr.C.Arul Vadivel Associates

ORDER

The writ petition has been filed in the nature of a Mandamus seeking a direction against the second respondent, Authorised Officer/Special District Revenue Officer, Land Acquisition, Office of Special District Revenue Officer, Chennai – Kanyakumari Industrial Corridor Project, Kumbakonam Taluka, Thanjavur District, to consider the representation given by the petitioner herein, A/m.Sri Mamarathu Mahamariyamman Temple, represented in the writ petition by R.Kamaraj, who has described himself as Managing Trustee and residing at Thiruvudaimaruthur Taluk, Thanjavur District, dated 16.08.2021 relating to the lands of the temple which had been acquired in Na.Ka.



W.P(MD)No.87 of 2022

No.270/2019/A2 dated 02.07.2021 for the lands at Thiruvidadaimaruthur in Maruthakavadi Village in R.S.No.1) 122/2 - 100 Sq.m, 2) 122/12 - 7 Sq.m, 3).122/9 - 6 Sq.m, 4) 122/8 - 6 Sq.m 5) 122/7 - 6 Sq.m, 6) 430/13 - 8 Sq.m, 7) 430/12 - 5 Sq.m, 8) 430/8 - 12 Sq.m 9) 430/5 - 12 Sq.m 10) 430/4 - 6 Sq.m 11) 430/1 - 6 Sq.m, totally 174 square meters which had been acquired for Chennai - Kanyakumari Industrial Corridor Project - Kumbakonam - Sirkali Road Expansion. By the said representation, dated 06.08.2021, the petitioner had sought issuance of notice of the acquisition to the petitioner herein, so that, the petitioner can make a reference for deposit of the amount into the competent Court namely, the Principal District Court, Thanjavur and also to enable the petitioner to challenge the quantum of compensation awarded.

2. The learned counsel for the petitioner stated that the petitioner is the Managing Trustee of the said temple and in order to protect the lands of the temple had also instituted, as many as 9 suits, in the Sub Court at Kumbakonam namely, O.S.Nos.385, 447, 469, 488, 490, 491 of 2021, 116, 120 and 123 of 2022 seeking to protect the lands of the temple.



W.P(MD)No.87 of 2022

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3. It is stated that the petitioner had also opened a Bank account in the name of the temple and not in his individual name and that bank account had been opened at Corporation Bank, Aaduthurai in Kumbakonam, on 20.04.2015. The petitioner seeks that the compensation amount for the acquisition lands may be deposited in a non transferable deposit scheme in the said account and thereafter, the temple may be permitted only to receive the interest for running of the temple and for the expenses relating to the temple herein.

4. It is claimed by the learned counsel for the petitioner that the *bonafide* of the petitioner cannot be suspected and that the petitioner is acting only in the interest of the temple and not out of any personal interest. It is stated that notice is pre-requisite and only when notice is issued, can the award be questioned and enhancement be sought before the competent Court / Principal District Court, Thanjavur.

5. In this connection, the learned counsel has placed reliance on Sections 64 and 77 of the Right to Fair Compensation and



W.P(MD)No.87 of 2022

Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

6. It is under those circumstances, the writ petition has been filed. It is claimed that if the award amount is accepted, then much loss would accrue to the temple and therefore, to question the quantum of award granted for the acquisition of the lands, notice should be issued and the petitioner claims prerogative of issuance of such notice to the petitioner herein.

7. In the meanwhile, W.M.P(MD)No.21225 of 2022 has been filed by 10 petitioners who claim that they are also directly interested in the affairs of the temple as 'Nattanmai' of that particular area and also questioning the *locus* of the petitioner herein.

8. It is specifically contended that the amounts are sought to be deposited in an account opened by the petitioner in the name of the temple only with intention to take away the said amount by the petitioner herein. It is stated that merely because the petitioner had instituted suits,



W.P(MD)No.87 of 2022

would not confer any right on the petitioner herein since, even in the written statement the *locus* of the petitioner to institute such suits had been taken as a defence by the defendants therein.

9. The writ petition has been filed against the Land Acquisition Officers and also against the Joint Commissioner, HR & CE Department, Mayiladudurai. On behalf of the fourth respondent, the Joint Commissioner, HR & CE Department, Mayiladudurai, a counter affidavit had been filed, wherein, it had been stated that a sum of Rs.1,02,49,308/- (Rupees One Crore Two Lakhs Forty Nine Thousand Three hundred and Eight only) had been awarded as compensation towards acquisition of the lands of the temple and it is specifically stated that the petitioner has no right to claim that the said amount should be deposited in a particular account or in a particular manner and it is also stated that the petitioner's *bonafide* itself is suspect.

10. Subsequently, during the course of hearing, it had been informed to this Court that by an order dated 21.02.2022 in Se.Mu.Na.Ka.No.16262/2017/10A4 – Assistant Commissioner, HR &



W.P(MD)No.87 of 2022

CE Department, Kumbakonam, had been appointed as fit person for the said temple. It had been stated that therefore the temple is now under the effective control of HR & CE Department and that any question relating to enhancement or otherwise of the compensation can be examined only by the HR & CE Department and not by the petitioner herein.

11. The learned Special Government Pleader appearing on behalf of the respondents 1 and 2 and had stated that the lands had been acquired for the Chennai – Kanyakumari Industrial Corridor Project and that the award has also been determined.

12. There are two issues which arise for consideration. One, the *locus* of the petitioner. The claim that he is the Managing Trustee's to be balanced with the statement made by the petitioners in the impleading petition, that the petitioner is not the Managing Trustee and also the specific statement by the Assistant Commissioner HR & CE, Kumbakonam, that the petitioner has never been recognised as the Managing Trustee of the Temple and that they have now appointed a Fit Person to manage the affairs of the temple.



W.P(MD)No.87 of 2022

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13. The second issue relates to the award and whether that is a just award or whether it is to be questioned further and enhanced award has to be sought and the proper authority to initiate such proceedings for enhancement of compensation.

14. So far as the first issue is concerned, namely, the *bonafide* of the petitioner, it is his claim that he is the Managing Trustee. This assertion has to be balanced with the order passed by the Assistant Commissioner, HR & CE, Kumbakonam, appointing a Fit Person for the said temple. The issue will now have to shift before the HR & CE Officials, HR & CE Department, Mayiladudurai, who will have to examine whether the appointment of the Fit Person was issued with notice or without notice and the circumstances under which such Fit Person was appointed and whether the petitioner can question the said appointment in manner known to law.

15. This Court is not the competent Court to examine the correctness of the order of appointment of the Fit Person or whether the temple itself is a listed temple under the control of the HR & CE



W.P(MD)No.87 of 2022

Department and whether the Fit Person could ever be appointed by the Assistant Commissioner, HR & CE Department, Kumbakonam. These are issues which are beyond the scope of this writ petition.

16. The second aspect is with respect to the award which had been worked out for the acquisition of lands of the temple. If it is found that the award is on the lower scale, then in the interest of the temple, an application will have to be filed questioning the quantum of award. The proper authority to question such award or the quantum of award will be the person to whom notice had been issued about the determination of such award. The petitioner claims privilege for issuance of such notice. The *locus* of the petitioner itself is now questionable. A Fit Person has now been appointed by the HR & CE Department, to look after the affairs of the temple.

17. In view of these facts, the following directions are, therefore, issued :-

1) The Fit Person who has now been appointed by the Assistant Commissioner, HR & CE



W.P(MD)No.87 of 2022

Department, Kumbakonam, may open a separate bank account and the amount which has been awarded for acquisition of the lands if deposited in the jurisdictional Court, subject to orders of that Court be deposited is to be in a non-transferable fixed deposit scheme and directions may be issued by the Assistant Commissioner, for expenses relating to the temple by utilizing the interest, if it is so permitted by the Court.

2) The Fit Person who has been appointed by the HR & CE Department, has to question the award in manner known to law, if it is, according to the Fit Person, not proper and just. But, in order to protect the interest of the temple, let notice be issued by the second respondent to the Fit Person under the provisions of Land Acquisition Act and on receipt of such notice, let the Fit Person file necessary application for enhancement of award and let the Court, namely, the Principal District Court,



W.P(MD)No.87 of 2022

Thanjavur, take a decision about the award of compensation which had already been granted and whether it should be enhanced or not enhanced.

18. It is made clear that by this arrangement, the *locus* of the petitioner has not been examined by this Court. The petitioner has every right to protect his interest. He has every right to file necessary application questioning the appointment of Fit Person. If the petitioner succeeds if such application is filed by him in being declared as the Managing Trustee, then he would naturally step into the place of the Fit Person in any application filed questioning the quantum of award and will also be competent to proceed further with the suits which had already been filed.

19. In so far as the impleading application is concerned, the petitioner therein have suddenly taken an interest over the land and they seek participation when the award has now been crystallized for the acquisition of lands of the temple. There are no documents produced that they have initiated any suits to protect the lands of the temple.



W.P(MD)No.87 of 2022

There are no documents produced to show that they have taken steps against the tenants who are in occupation and questioned the quantum of rents paid by the tenants. Therefore, I would not encourage such an application. The impleading application stands dismissed.

20. The issue is now between the petitioner on the one hand and the Fit Person on the other hand. The petitioner has every right to question the appointment of the Fit Person and the justification for appointment of the Fit Person. That appointment can be justified only by the Joint Commissioner, HR & CE Department. Those proceedings will have to be initiated separately before the Joint Commissioner, HR & CE Department, Mayiladudurai. Till such proceedings are completed, since the lands of the temple has to be protected, let the Fit Person as stated above, file necessary application for enhancement of the award.

21. The second respondent is directed to issue notice to the Fit Person about the award which had been granted and deposit the award amount before the Principal District Court, Thanjavur. Let all issues be examined by the appropriate authority.



W.P(MD)No.87 of 2022

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22. Accordingly, the writ petition is disposed of. No costs.

Consequently, connected W.M.P(MD) No.21225 of 2022 is dismissed.

23.03.2023

Index :Yes/No
Internet :Yes/No
NCC : Yes / No
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W.P(MD)No.87 of 2022

To
WEB COPY

1. Tamil Nadu State By
The District Collector, Thanjavur,
District Collectorate Office Thanjavur,
Thanjavur.
2. The Authorized Officer / Special District Revenue Officer,
Land Acquisition,
O/o. the Special District Revenue Officer,
Chennai - Kanyakumari Industrial Corridor Project,
Ishwarya Nagar - Near Koranattu Karuppur Rountana,
Koranattu Karuppur,
Kumbakonam Taluka.
3. The Joint Commissioner,
Mayiladuthurai,
Hindu Religious and Charitable Endowments Department,
Mayiladuthurai.



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W.P(MD)No.87 of 2022

C.V.KARTHIKEYAN, J.

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W.P(MD)No.87 of 2022

23.03.2023