



W.P.(MD)No.4867 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 29.11.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.4867 of 2021

and

W.M.P.(MD)No.3953 of 2021

1.K.Murugesan

2.Karuppasamy

... Petitioners

vs.

1.The District Collector,
Dindigul District, Dindigul.

2.The District Revenue Officer,
O/o.The District Revenue Officer, Dindigul District.

3.The Revenue Divisional Officer,
O/o.The Revenue Divisional Officer,
Palani, Dindigul District.

4.The Thasildar,
Ottanchathiram Taluk,
Ottanchathiram, Dindigul District.

5.The Executive Engineer,
Public Works Department,
Nanganjiyar Reservoir Scheme,
(Channel-Drainage Line)
Palani, Dindigul District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to hand over the excess land acquired more than 10 Meters for the Nanganjiyar Reservoir Channel Scheme in the petitioners Patta land in Survey Nos.579/4A2, 554/1, 554/2 and 579/2 situated at E.Kallupatti, Edaiyakottai, Ottanchathiram Taluk, Dindigul District, the 1st respondent vide his Proceeding in Na.Ka.No.36912/08/E1, dated 31.12.2020 on the basis of the Petitioner and the 2nd petitioner representation dated 10.12.2020 within the time stipulated by this Court.

For Petitioner :Mr.V.Muthusamundeeswaran
For Respondents :Mr.B.Saravanan
Additional Government Pleader

ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus directing the respondents to hand over the excess land, that was acquired in the subject property in S.Nos.579/4A2, 554/1, 554/2 and 579/2 at E.Kallupatti, Edaiyakottai, Ottanchathiram Taluk, Dindigul District on the basis of the representation made by the petitioners on 10.12.2020.



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2.The case of the petitioners is that the second petitioner was the original owner of the subject property. The first petitioner came into the scene pursuant to the registered sale deed executed by the second petitioner on 25.06.1997. As per this this sale deed, the first petitioner had purchased nearly an extent of 3 acres 9 cents in S.No.579/4A, 2/3rd share in S.No.579/2, which has a total extent of 30 cents, one acre in S.No.554/1, 1 acre and 30 cents in S.No.554/2 and 87½ cents in S.No. 138/1.

3.Even in the sale deed, with respect to S.Nos.579/4A and 554/2, the remaining property, that was available after the acquisition by the Government land was sold to the first petitioner. The grievance of the petitioners is that the respondents have taken over excess land, more than what was acquired and hence, the petitioners have sought for a direction to hand over the excess lands acquired by considering the representation dated 10.12.2020.

5.The third respondent has filed a counter affidavit. It is stated in the counter affidavit that the Government decided to acquire the lands for



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the purpose of excavation of the right side high level canal under Nanganchiyar Reservoir Scheme and accordingly, 0.18.50 hectares of lands in S.Nos.554 and 0.68.00 hectares of lands in S.No.579 were acquired and an award was also passed on 04.10.1995. After completion of the acquisition proceedings, the revenue records were also mutated and the acquired lands were shown as “Arasu Purambugal Pothupani Thurai Vaaikaal”. The third respondent has taken a very specific stand that no excess land was acquired from the petitioners and that the first petitioner has encroached upon the acquired lands to an extent of 0.03.09 hectare. A notice has also been sent to the first petitioner in this regard by the third respondent through proceedings dated 01.11.2023. In view of the same, the respondents have denied the claim made by the petitioners and sought for the dismissal of this Writ Petition.

6.Heard Mr.V.Muthusamundeeswaran, learned Counsel appearing on behalf of the petitioner and Mr.B.Sarsavanan, learned Additional Government Pleader appearing on behalf of the respondents.



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7.The learned Counsel for the petitioners submitted that the respondents have taken over excess lands more than 10 meters, which was acquired for the Nanganchiyar Reservoir Scheme channel and these lands will have to be handed over to the first petitioner.

8.Per contra, the learned Additional Government Pleader appearing on behalf of the respondents submitted that no excess lands were acquired by the authorities and that originally, S.No.554 was sub divided as 554/1, 554/2A and 554/2B and after the land acquisition, S.No.554/1 having a total extent of 0.66.50 hectares was further sub divided as 554/1B to an extent of 0.05.50 hectares. For this extent of land, the compensation was also awarded to the second petitioner. Insofar as S.No.554/2A is concerned, there was a total extent of 0.60.50 hectares, which was sub divided as S.No.554/2A2 and an extent of 0.11.00 hectares was acquired, for which, the second petitioner was paid compensation. Similarly, with respect to S.No.554/2B, the total extent is 0.63.0 hectares and it was sub divided as S.No.554/2B1 and 0.02.00 hectares was acquired from one Rasu Gounder and compensation was also paid to him. In view of the same, the learned Additional



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Government Pleader contended that a total extent of 0.18.50 hectares of land was acquired in S.No.554/1B, 554/2A2, and 554/2B1 and compensation was also paid for the lands. Similarly, for the lands in S.Nos.579/3B, 579/4A1, 579/4A3, 579/4B1A, 579/4B2A, 579/4B3B, and 579/4B3C, a total extent of 0.68.00 hectares of lands were acquired and compensation amount was also paid. The learned Additional Government Pleader further contended that insofar as S.Nos.579/1 and 579/2, totally 94 cents of lands were acquired and the compensation amount was also paid to the first petitioner.

9.On carefully going through the pleadings and the submissions made on either side, it is seen that the first petitioner is claiming that only 45 cents was acquired in S.No.579/1 and 579/2 and whereas, the respondents have claimed that 94 cents were acquired and award amount was also paid to this extent. Similarly, the second petitioner was awarded the compensation with respect to 554/1 and 554/2.

10.It is not necessary for this Court to go into the disputed questions of facts regarding extent of land that was acquired and the



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compensation amount that was paid. Now, the respondents have come up a specific stand that the first petitioner has encroached upon the lands, that were acquired and therefore, proceedings have been initiated by the third respondent on 01.11.2023. It is left open to the petitioners to give explanation and satisfy the respondents that no encroachment was made. It is must be borne in mind that the first petitioner came into the scene only in the year 1997 after the acquisition was over and therefore, the first and second petitioners must satisfy the respondents that they are not in occupation of the lands, which were acquired by the respondents. Except giving this clarity, no further orders can be passed in this Writ Petition.

11.This Writ Petition is disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Index :Yes / No
Internet :Yes / No
NCC :Yes / No

29.11.2023

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N.ANAND VENKATESH, J.

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