



W.P.(MD)No.12119 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.12.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.12119 of 2021

and

W.M.P.(MD).Nos.9526, 9528 & 9532 of 2021

Jenipan

... Petitioner

Vs

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Special Deputy Collector,
River Water Linking Project,
Tirunelveli.

3.The Special Tahsildar (Land Acquisition),
River Water Linking Project, Unit – VI,
Radhapuram at Nanguneri,
Tirunelveli.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records pertaining to the impugned order passed by the 3rd Respondent vide his Proceeding in Na.Ka. A/20/2019 dated 14.06.2021 and quash the same as illegal.

For Petitioner : Mr.C.Mayilvahana Rajendran

For R-1 to R-3 : Mr.R.Ragavendran,
Government Advocate



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ORDER

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This Writ Petition has been filed challenging the impugned proceedings of the third respondent dated 14.06.2021.

2. The case of the petitioner is that he is the absolute owner of the subject property in Survey No.621A/2B to an extent of 32.11 Cents which was purchased by the petitioner through a registered sale deed dated 11.01.2012. The acquisition proceedings were initiated by the respondents under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, for implementing an irrigation project. Apart from the subject property, Plot Nos.15 and 18 belonging to the petitioner were also acquired. Insofar as Plot Nos.15 and 18 are concerned, the compensation was fixed based on the market value and the petitioner was satisfied with the same. The petitioner wanted the same yardstick to be applied for the subject property also, since it is the adjacent survey number. A representation was made in this regard before the third respondent. The third respondent through the impugned proceedings dated 14.06.2021 refused to fix the compensation on par with Plot Nos.15 and 18. Aggrieved by the same, the present Writ Petition has been filed before this Court.



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3. The third respondent has filed a counter affidavit and has taken a stand that the subject property is a punja land and the compensation that was fixed for Plot Nos.15 and 18 cannot be a guiding factor for fixing the compensation for the subject property and no compensation can be paid on par with the compensation fixed for Plot Nos.15 and 18. Accordingly, the third respondent has sought for the dismissal of this Writ Petition.

4. In the considered view of this Court, the very jurisdiction of the third respondent to take such a decision has been put to challenge in the present Writ Petition. According to the petitioner, it is only the District Collector who can fix the compensation under Section 26 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

5. The petitioner has taken a stand that the first respondent had forwarded the file to the third respondent and it was pending before the third respondent and therefore, the petitioner had filed the earlier Writ Petition in W.P.(MD).No.18134 of 2020 to direct the third respondent to deal with the pending representation. The petitioner submitted that the



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third respondent ought to have submitted a report before the first respondent and the first respondent should have passed an order and whereas, the third respondent has straight away passed the order rejecting the claim made by the petitioner.

6. The learned Government Advocate appearing on behalf of the respondents submitted that almost all the owners have received the compensation and the respondents are not able to implement the irrigation project only due to the *status quo* that has been granted in this Writ Petition.

7. Taking into consideration the facts and circumstance of the case and the urgency that is involved in implementing the irrigation project and also considering the fact that the subject property is situated in the adjacent survey number to Plot Nos.15 and 18, this Court is inclined to interfere with the decision taken by the third respondent and direct the payment of compensation to the petitioner for the subject property on par with Plot Nos.15 and 18.



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8. In the light of the above discussion, the impugned proceedings of the third respondent dated 14.06.2021 is hereby quashed and there shall be a direction to the respondents to pay the compensation for the subject property in Survey No.621A/2B measuring an extent of 0.05.20 Hectares on par with the compensation that was fixed for Plot Nos. 15 and 18. This process shall be completed within a period of four (4) weeks from the date of receipt of a copy of this order. In view of the same, it will be left open to the respondents to proceed further with the acquisition and for the completion of the project.

9. In the result, this Writ Petition is allowed in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

07.12.2023

NCC:yes/no
Index:yes/no
Internet:yes/no
TSG



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To

- 1.The District Collector,
Tirunelveli District,
Tirunelveli.
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River Water Linking Project, Unit – VI,
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N.ANAND VENKATESH, J.

TSG

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