



W.A(MD)No.748 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 01.02.2023

CORAM :

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE SUNDER MOHAN**

**W.A(MD)No.748 of 2019
and
C.M.P(MD)Nos.9816 and 6608 of 2019**

The Deputy Chief Engineer (Construction),
Southern Railway,
Salem Division,
Salem.

.. Appellant/4th Respondent

Vs.

1.R.Saravanan

.. 1st Respondent/Writ Petitioner

2.The District Collector,
Karur District,
Karur.

3.The District Revenue Officer,
Karur.

4.The Special Tahsildar (Land Acquisition),
Office of Taluk Office,
Karur.

.. Respondents 2 to 4/
Respondents 1 to 3



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5.Sri Bala Subramaniam Swamy Thirukovil,
Rep. by Mr.R.Sankaran,
Executive Officer,
Vennaimalai,
Manmangalam Taluk,
Karur- 639 006.

.. 5th Respondent

[5th Respondent is impleaded vide
Court order dated 28.11.2022 made in
CMP(MD)1035/2023]

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent Act,
against the order, dated 9.10.2018, made in W.P(MD)No.12595 of 2016.

For Appellant : Mr.D.Saravanan
Central Government Standing Counsel

For Respondents : Mr.Prasanna Vinoth
for Mr.M.Palaniraja
for R1

: Mr.D.Sasikumar
Additional Government Pleader
for R2 to R4

: Mr.S.Madhavan
for R5



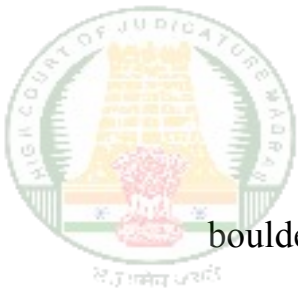
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JUDGMENT

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DR.G.JAYACHANDRAN, J.
and
SUNDER MOHAN, J.

Mr.R.Saravanan, the pattadhar of the land in Survey No.249/4 at Kadaparai Village, Manmangalam Taluk, Karur District, to an extent of 0.32.0 Hectares, approached this Court by way of writ petition seeking mandamus directing the respondents to pay compensation for the land acquired by the Railway Department for the purpose of laying railway line. After considering the arguments placed by the respective counsels and granting sufficient adjournments, taking note of the submissions made by the Railway Department to the effect that the land of the writ petitioner used by the Railway Department to dump huge chunk of granite stones and left in the site for more than four years could not be removed for want of fund and also the entire acquisition proceedings been dropped since the petitioner's land is not required for them any longer and also made a submission that liberty may be given to the petitioner to remove the



boulders and granites at his own cost and sale the materials, this Court passed the following order on 29.10.2018:

“...4. Thereafter, the matter was adjourned twice and when it was taken up for hearing on 19.07.2018, this Court has passed the following order:

“..2. According to the petitioner, he has no grievance against the acquisition. All he needs, is the payment of compensation. Initially, the Railway wanted the acquiring body to acquire the lands of the petitioner and after some time, the proceedings were sought to be dropped in respect of petitioner's land alone. In the meanwhile, large sunk of boulders were dumped in the petitioner's place incapacitating him from using the lands for any purpose.

3. The learned Counsel for the fourth respondent/Railway, on instructions, submitted that the Railway is willing to take over the land and the third respondent can continue the acquisition proceedings. In the event of award being passed by the fourth respondent, the Railway is willing to deposit the amount.

4. In view of this factual position, this Court directed the first respondent to come out with the quantum of compensation for disposing of this writ petition.



5.Today, when the matter is taken up for hearing, the learned Government Advocate appearing for the respondents 1 to 3 seeks time for reporting the quantum of compensation before this Court.

6.List the matter on 27.07.2018.”

5.After several adjournments, the learned Government Advocate produced a copy of the proceedings of the Revenue Divisional Officer, Karur, in Na.Ka.A/180/2014 dated 31.07.2018, which was addressed to him. It is nothing but the valuation of the land and compensation, which amounts to Rs. 2,10,38,037/-, including solatium and interest. In that said proceedings, it was mentioned that the subject property is a temple property and in that regard, a Public Interest Litigation in W.P.(MD)No.64 of 2018 is pending before this Court. The learned Counsel for Railway sought for an 6 adjournment, in order to produce the counter affidavit filed in the said writ petition. In that backdrop, the matter was adjourned.

6. Thereafter, the learned Counsel for the fourth respondent / Railway, by way of typed set of papers, has produced a copy of the counter affidavit filed by the District Collector, Karur, in W.P. (MD)No.64 of 2018, who is also the first respondent



*herein, and submitted that the land in question is a temple property. It is seen that the property in question is Survey No.249/4 situated at Kadaparai Village, Manmangalam Taluk, Karur District. On a closure scrutiny of the counter affidavit in W.P. (MD)No.64 of 2018, with regard to the subject property, it has been averred as follows: “(*from page no.44 of the typed set of papers filed by R4 / inner page no.39 of the counter affidavit in WP(MD)No.64/2018) ... iii)the lands that were registered in the name of the temple as per the settlement register, 1912, but, pattas issued as per Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act 30 of 1963 etc. (Andankovil East Village Survey No – 7, 20, 21, 22, 23, 25, 26, Kathaparai Village Survey No – 182, 184, 192, 246, 249, 181, 250 and Authur Village Survey No – 566, 568). <http://www.judis.nic.in> 7 ... In respect of the lands for which pattas have been issued as per Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act 30 of 1963, the decisions made during the final settlement enquiry under the said Act have become final and appeal / revisions can be preferred only as per the sections provided in the Act. The*



*statutory orders passed by the settlement authorities
cannot be interfered with by the revenue authorities.”*

2. After few more adjournments, the value of the land was fixed at Rs.2,10,38,037/- (Rupees two crores ten lakhs thirty eight thousand and thirty seven only) including solatium and interest. At that point of time, it was brought to the notice of the Court by the learned counsel for the appellant the counter affidavit filed by the District Collector, Karur in a connected W.P(MD)No.64/2018 wherein the land in question stated to be owned by the temple. In the counter of the District Collector, Karur in the other proceedings, namely, W.P(MD)No.64/2018, it was contended that the subject land was registered in the name of the temple as per the Settlement Register 1912, but patta been subsequently issued pursuant to the provisions of Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963. Citing this passage, it was contended that this counter filed by the District Collector, Karur, in the other writ petition has to be taken note of.



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3. The above said submission of the Railway Department was not acceded by this Court for the reason that the grant of patta in favour of individuals never been challenged by the temple authority by following the procedures contemplated under the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963. In the absence of any revision or appeal against the grant of patta, the counter affidavit in other matter cannot stand in the way of directing to pay the compensation to the pattadhar, namely, the writ petitioner.

4. It was further pleaded that without a formal acquisition proceedings, compensation cannot be granted. That plea was also rejected by this Court on 29.10.2018 with the following observation:

“9. Admittedly, the land was acquired by the Railway long back and the same has been put into use. After some time, the proceedings were sought to be dropped in respect of the petitioner's lands alone, however, leaving the large sunk of boulders which were dumped in the lands incapacitating him from using the lands for any purpose. Thereafter, they undertook that they will



take over the land. Now the Railway has taken a plea that formal land acquisition procedure has to be taken. In the earlier occasion, the learned Counsel for the Railway undertook that in the event of award being passed by the Government, the Railway is willing to deposit the amount and subsequent thereto, based on the direction of this Court, the learned Government Advocate has produced a copy of the proceedings of the Revenue Divisional Officer, Karur, in Na.Ka.A/180/2014 dated 31.07.2018 (referred to supra), whereby, the compensation was fixed as Rs.2,10,38,037/-, including solatium and interest. This compensation amount is not disputed by the learned Counsel for the Railway and therefore, they are liable to pay the compensation to the petitioner.”

In fine, the writ petition was allowed directing the Railway Department to pay the entire compensation amount to the petitioner within a period of eight weeks from the date of order. This order came to be passed on 29.10.2018 against which the Railway Department/4th respondent preferred intra-court appeal which is under consideration today.



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5. It was again contended in the appeal that without formal acquisition proceedings under the Land Acquisition Act, the fixation of compensation of Rs.2,10,38,037/- without any jurisdiction is arbitrary and it is also contended that the writ petitioner has an alternate remedy for seeking damages for using his land and therefore forcing the Railway Department to purchase the land paying compensation for the land without following due process of law is unsustainable.

6. Meanwhile, pending writ appeal, Sri Bala Subramaniam Swamy Thirukovil sought impleading in this case claiming that the disputed land is owned by the temple and appropriate proceedings been initiated to retrieve the land pursuant to the order passed by the Division Bench of this Court in a Public Interest Litigation. This Court allowed the implead petition. After due consideration of the merit canvassed by the Railway Department in this appeal and the reason recorded by the Single Judge for directing the Railway Department to pay compensation for the land, this Court found that the land in dispute as on date stands in the name of the writ petitioner. The patta been given to him and he has been in enjoyment all along till the



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Railway Department arbitrarily occupied the land and dumped the granite stone while constructing the new railway line. Initially, the land owner was made to believe that the land was required for Railway Department and they have initiated acquisition proceedings. When they failed to pay compensation, he approached the Court by filing a writ petition in W.P(MD)No.12595 of 2016 and in the said writ petition, it has been canvassed by the Railway authority that they no more require the said land.

7. During the course of the proceedings, value of the land been assessed. The Revenue Divisional Officer has made independent assessment of the value of the property and certified that it values Rs.2,10,38,037/-. Taking note of the location of the land in dispute and considering that the land which has been dumped with granite stone and made unfit for any purpose, this Court has directed the Railway Department to pay the compensation as fixed by the Revenue Divisional Officer.

8. No doubt there was no formal acquisition proceedings. It does not mean that an arbitrary usurpation of the land owned by the writ petitioner by



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the State should be left without any redressal. Therefore, the Single Judge has rightly directed the Revenue Divisional Officer to assess the value of the land and pay compensation to the land owner.

9. As far as the claim of Sri Bala Subramaniam Swamy Thirukovil questioning the title of the writ petitioner, this Court, from the records finds that on 01.11.2016, the then Commissioner of HR & CE Department has directed the then Executive Officer of the temple to take necessary action to cancel the patta issued to the individuals in respect of nearly 40.34 Acres of land in the said village which includes 6.33 Acres in S.No.249. It is to be noted that the land which is under consideration falls under S.No.249/4, measuring 77 cents, it is pertinent to note that though the Commissioner has directed the then Executive Officer to take necessary action to cancel the patta issued to the individuals under Tamil Nadu Minor Inams (Abolition and Conversion Into Ryotwari) Act, 1963 and retrieve the land, it is unfortunate to note that till date officials of the HR&CE Department has not taken any steps. It is also pertinent to note that even after getting impleaded in this writ appeal, except request to stay off disbursing the compensation to



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the patta holder, no other steps been taken by the HR&CE Department to establish their title over the property.

10. A stray averment made in a different writ petition by the District Collector, who is also a party respondent in the current proceedings, the unacted letter of Commissioner dated 04.11.2016 and an irrelevant communication to the Executive Officer to the Revenue Divisional Officer dated 04.12.2022 is referred by the learned counsel appearing on behalf of the temple, who have got impleaded in this writ appeal more than a year ago. This Court is unable to understand why the temple, which claims that the said property belongs to the temple, but not taken any action to cancel the patta till date even after knowing that the land belongs to the temple as early as November, 2016. As far as the present proceedings is concerned, it is the writ petitioner, who is the first respondent herein been enjoying the land after obtaining patta and agitating for the compensation and now when the Railway Department has come forward to deposit the compensation amount of Rs.2,56,28,052/- the learned counsel appearing for the temple



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vehemently oppose without any material, the disbursement of the amount to the first respondent.

11. Even today this Court was inclined to consider the request of the temple and asked to provide any material regarding title to show that the temple has taken appropriate proceedings. Unfortunately, the learned counsel for the temple is not able to provide any material except the three documents which we have referred above. Infact, it is also brought to our notice that in respect of other survey numbers, which they claim title, suit has been filed, however, the schedule of the suit property does not include S.No.249/4 to an extent of 77 cents in the said circumstances, we are of the view that the disbursement of the money to the first respondent, the land owner, cannot be delayed any further in expectation of litigation.

12. Today, the learned Standing Counsel appearing for the appellant, Railway Department produced a cheque for Rs.2,56,28,052/- drawn in favour of the Additional Registrar General, Madurai Bench of Madras High Court. This Court directs the Additional Registrar General, Madurai Bench



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of Madras High Court, in whose favour the Railway Department has drawn cheque for Rs.2,56,28,052/-, to deposit and then encash the same and handover to the first respondent Saravanan/land owner by way of Demand Draft with an undertaking that this disbursement is subject to the outcome of any dispute regarding title.

13. With the above direction, this Writ Appeal is disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

[G.J.,J.] & [S.M.,J.]

01.02.2023

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

PJL

To
1.The Additional Registrar General,
Madurai Bench of Madras High Court,
Madurai.



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2.The District Collector,
Karur District,
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3.The District Revenue Officer,
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