



W.A.(MD) No.904 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.06.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

W.A.(MD) No.904 of 2023

S.G.Jebakumar Jebamani

... Appellant

-vs-

1. The Commissioner of Land Administration,
Chepauk, Chennai.
2. The District Collector,
Tirunelveli District.
3. The Special Thasildar (Land Acquisition),
River Linking Project,
Unit III River Linking, Palayamkottai,
Tirunelveli District.

... Respondents/
Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order,
dated 19.04.2023, passed in W.P.(MD) No.8079 of 2023, on the file of this Court.



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For Appellant : Ms.Porkodi Karnan
For Respondents : Mr.V.Nirmal Kumar
Government Advocate

J U D G M E N T

[Judgment of the Court was made by R.SUBRAMANIAN, J.]

Mr.V.Nirmal Kumar, learned Government Advocate takes notice for the respondents.

2. The Writ Court has rejected the writ petition as not maintainable on the ground that it is open to the land owners to seek remedy that is available under Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred as 'the Act').

3. The grievance of the petitioner as exposed before the Writ Court was that though there was a direction by this Court earlier in W.P.(MD) No.24818 of 2018 and Rev.Aplw.(MD) No.92 of 2019, requiring the Land Acquisition



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WEB COPY Officer, viz., the Special Tahsildar, to pass an award in terms of the new Act and the said direction having been affirmed by a Division Bench of this Court in W.A. (MD) No.930 of 2020. The Special Tahsildar (Land Acquisition), who is cited as the third respondent in the writ petition had not followed the procedure prescribed under Sections 21, 22 and 23 of the Act and therefore, the very award passed is invalid. However, the order/award that has been passed by the third respondent on 23.02.2022 was not impugned in the writ petition. The prayer is only for a mandamus for redetermination. A mandamus for redetermination, in our opinion, will not lie and the Writ Court has justified in dismissing the writ petition on the ground of maintainability. However, the relegation of the petitioner to remedy under the Act in our opinion may not be proper, because, it is the specific case of the petitioner that there is no award that had been made in terms of Section 23 of the Act read with Rule 18 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2017.

4. We are, therefore, of the considered opinion that the petitioner should be given an opportunity to challenge the proceedings dated 23.02.2022 which according to him have been passed in derogation of the provisions of the



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Act. Invocation of remedy under Section 64 of the Act would arise only when the award has been passed as per the procedure laid down under Section 23 of the Act. Hence, the order of the Writ Court is affirmed. We, however, grant liberty to the petitioner to challenge the order dated 23.02.2022 in the manner known to law.

5. Accordingly, this writ petition is disposed of. No costs.

[R.S.M., J.] [L.V.G., J.]

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NCC : No
Index : No
Internet : Yes
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R.SUBRAMANIAN, J.
and
L.VICTORIA GOWRI, J.

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