



W.P. (MD).No.17562 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH Court

WEB COPY

DATED: 14.12.2023

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD).No.17562 of 2021
and WMP(MD)No.14425 of 2021

K.Mohan

... Petitioner

Vs

1. The District Collector,
Collectorate, Kanyakumari District.
2. The Special District Revenue Officer,
Land Acquisition National Highways,
Near Collector Office, Nagercoil, Kanyakumari District.
3. The Special Tahsildar,
Land Acquisition National Highways,
No.6, Thiruvalluvar Nagar, Kesava Thirpapuram,
Vettoorani Madam Post, Nagercoil, Kanyakumari District.
4. The Project Director,
National Highways Authority of India,
Nagercoil, Kanyakumari District.
(R4 is suo-motu impleaded vide order, dated 05.10.2021)

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the



W.P. (MD).No.17562 of 2021

Respondent No.1 to 3 to determine the compensation to the petitioner under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and award the same for the petitioner's land in Survey No.730/2, in Kulasekarapuram Village, Agastheswaram Taluk, Kanyakumari District to an extent of 1.01.0 Acre within the period stipulated by this Court.

For Petitioner : Mr. S.Rajasekar

For Respondents : Ms.S.Jeyapriya (R1-R3)
Government Advocate

Mr.S.Sankara Pandiyan (R4)

ORDER

This writ petition has been filed for the issue of a writ of mandamus, directing the respondents 1 to 3 to determine the compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2.When the matter was taken up for hearing on 17.11.2023, this Court has passed the following order:



W.P. (MD).No.17562 of 2021

“A copy of the counter affidavit along with the typed set of papers filed by the fourth respondent has been served on the learned counsel for the petitioner.

2.The learned counsel for the petitioner seeks for some time to take instructions from his client.

3.The learned Government Advocate appearing on behalf of the respondents 1 to 3 submitted that whatever amount was fixed as compensation was paid to the petitioner. The said fact was also admitted by the learned counsel for the petitioner.

4.The short issue that arises for consideration in the present case is as to whether the petitioner is entitled to be paid compensation in line with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

5.The learned counsel for the fourth respondent by bringing to the notice of this Court the guidelines issued by the Ministry of Road Transport and Highways, Government of India dated 28.12.2017, submitted that the case of the petitioner will fall under the guideline No.4.6 (iii) (a) and that the petitioner is not entitled to compensation under 2013 Act. To substantiate the same, the learned counsel also relied upon the judgment of the Division Bench of this Court in W.A. (MD)No.1927 to 1930 and 2167 to 2177 of 2021, dated 14.07.2021 and placed specific reliance upon paragraph No.7 of that judgment.

6.List this case on 24.11.2023 under the caption 'part heard'.



W.P. (MD).No.17562 of 2021

3. Thereafter, when the matter was posted for hearing on 24.11.2023, this Court has passed the following order:

“When the matter was taken up for hearing, the learned counsel for the petitioner submitted that a Division Bench of this Court had passed a judgment in W.A.(MD) No.92 of 2022, dated 05.09.2023 and the learned counsel specifically placed reliance upon Paragraph No.4 of the judgment. The learned counsel submitted that this judgment is in favour of the petitioner.

2. The learned counsel for the 4th respondent had relied upon yet another Division Bench judgment, which was taken note of in the earlier order passed by this Court on 17.11.2023.

3. The learned counsel for the petitioner has now placed reliance upon yet another Division Bench judgment.

4. This Court has to necessarily look into the judgment that was relied upon by the learned counsel for the petitioner before coming to a final conclusion in this matter.

5. Post this writ petition under the same caption on 30.11.2023.”

4. The case was once again listed on 30.11.2023 and this Court passed the following order:

“During the course of hearing, it was brought to the notice of this Court that earlier the petitioner had filed Writ Petition in W.P(MD)No.13087 of 2017 for a direction to the respondents 2 and 3 herein to consider the representation made



W.P. (MD).No.17562 of 2021

by the petitioner on 21.05.2015. This Writ Petition was disposed of by order dated 17.07.2017. Since the respondents 2 and 3 did not pass any orders, yet another representation was given by the petitioner on 21.09.2021. This representation is the cause of action for filing the present Writ Petition.

2. The learned Government Advocate appearing on behalf of the respondents 1 to 3 shall take instructions from the respondents 2 and 3 as to why the earlier order passed by this Court in W.P(MD)No.13087 of 2017 dated 17.07.2017 was not complied with. An affidavit shall be filed by the 2nd respondent in this regard.

3. It is made clear that compliance must be reported by the respondents 2 and 3 during the next date of hearing.

4. Post this Writ Petition on 14.12.2023 under the caption 'for reporting compliance'."

5. In obedience to the above order, an affidavit has been filed by the second respondent reporting compliance of the earlier order passed by this Court in W.P(MD) No.13087 of 2017, dated 17.07.2017. The relevant portions in the affidavit are extracted hereunder.

"3. I submit that at the time of acquisition, the petitioners land was classified as poramboke land and included in the publication. Subsequently as per orders in W.P.Nos. 7741 to 7746/2013 of the Madurai Bench of Madras High Court and as per Proceedings No. L1/16818/2013 dated 02.09.2013 of the



W.P. (MD).No.17562 of 2021

District Collector, Kanniyakumari the lands were assigned to the enjoyers including the applicant.

4. I submit that modification Award No. 3/2013-20 dated 13.01.2017 was passed awarding compensation to the applicant and others fixing land value at the rate adopted in the Original Award passed on 23.05.2013. After passing of Award the Writ Petitioner has filed this Writ petition.

5. I submit that though Modification Award was passed on 13.01.2017 the land owner never produced bank account to deposit the compensation. On receipt of Bank Account No from the land owner the compensation was deposited in his account on a later date.

6. I submit that the Right to Fair Compensation Transparency in land Acquisition Rehabilitation and Resettlement Act come into force only from 01.01.2015 and for Awards passed on or after 01.01.2015. In this case the Original Award was passed on 23.05.2013 and hence the new Act was not followed.

7. I submit that the amount of compensation was determined after taking in to consideration the sales prevailed in the vicinity for one year prior to the date of publication of 3A notification and also the prevailing guideline value.

8. I submit that Notification Award No.3/2013-20 sanctioning Award to the individuals has been passed on 13.01.2017 and compensation already paid to those who have produced the required bank accounts.

9. I submit that the land owners of Kulasekarapuram Village are not eligible to get compensation under the provisions of the Right to Fair Compensation Transparency in



W.P. (MD).No.17562 of 2021

land Acquisition Rehabilitation and Resettlement Act 2013.

Since the award was passed on 23.05.2013 and 75% of compensation has been disbursed to the land owners of Kulasekarapuram village before 31.12.2014.

6.Apart from the above, the refusal order, dated 07.12.2023 was also produced before this Court. A copy of the same has also been furnished to the learned counsel for the petitioner.

7.In the light of the above development, no further orders can be passed in this petition. If the petitioner is aggrieved with the same, it is left open to the petitioner to work out his remedy in the manner known to law. Accordingly, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

14.12.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
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W.P. (MD).No.17562 of 2021

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N.ANAND VENKATESH, J.

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ORDER IN
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14.12.2023