



W.P(MD)Nos.20517 to 20520 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)Nos.20517 to 20520 of 2014 and
WMP(MD) Nos.1,1,1,1 of 2014

W.P(MD)No.20517 of 2014:-

J.Victor Nallathambi

... Petitioner

Vs

- 1.The District Collector,
Tirunelveli,
Tirunelveli District.
- 2.The Revenue Divisional Officer,
Tirunelveli.
- 3.The Superintendent of Police,
Tirunelveli,
Tirunelveli District.
- 4.The Tahsildar,
Palayamkottai Taluk Office,
Tirunelveli District.
- 5.The Principal,
Government Engineering College,
Palayamkottai,
Tirunelveli District.



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6.The Tirunelveli Diocesan Trust Association,
No.5, Punithavathiyar Street,
Palayamkottai,
Tirunelveli.

Respondents

(R6 is Suo Motu Impleaded Vide Court Order Dated 30/10/2023 in
WP(MD) No.20517 of 2014)

W.P(MD)No.20518 of 2014:-

Dulcy Arulraj,

... Petitioner

Vs

- 1.The District Collector,
Tirunelveli,
Tirunelveli District.
- 2.The Revenue Divisional Officer,
Tirunelveli.
- 3.The Superintendent of Police,
Tirunelveli,
Tirunelveli District.
- 4.The Tahsildar,
Palayamkottai Taluk Office,
Tirunelveli District.
- 5.The Principal,
Government Engineering College,
Palayamkottai,
Tirunelveli District.



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6.The Tirunelveli Diocesan Trust Association,
No.5, Punithavathiyar Street,
Palayamkottai,
Tirunelveli.

... Respondents

(R6 is Suo Motu Impleaded Vide Court Order Dated 30/10/2023 in
WP(MD) No.20518 of 2014)

W.P(MD)No.20519 of 2014:-

P. Janakinathan

... Petitioner

Vs

- 1.The District Collector,
Tirunelveli,
Tirunelveli District.
- 2.The Revenue Divisional Officer,
Tirunelveli.
- 3.The Superintendent of Police,
Tirunelveli,
Tirunelveli District.
- 4.The Tahsildar,
Palayamkottai Taluk Office,
Tirunelveli District.
- 5.The Principal,
Government Engineering College,
Palayamkottai,
Tirunelveli District.



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6.The Tirunelveli Diocesan Trust Association,
No.5, Punithavathiyar Street,
Palayamkottai,
Tirunelveli.

Respondents

(R6 is Suo Motu Impleaded Vide Court Order Dated 30/10/2023 in
WP(MD)No.20519 of 2014)

W.P(MD)No.20520 of 2014:-

T.Premkumar

... Petitioner

Vs

- 1.The District Collector,
Tirunelveli,
Tirunelveli District.
- 2.The Revenue Divisional Officer,
Tirunelveli.
- 3.The Superintendent of Police,
Tirunelveli, Tirunelveli District.
- 4.The Tahsildar,
Palayamkottai Taluk Office,
Tirunelveli District.
- 5.The Principal,
Government Engineering College,
Palayamkottai,
Tirunelveli District.
- 6.The Tirunelveli Diocesan Trust Association,
No.5, Punithavathiyar Street,



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Palayamkottai,
Tirunelveli.

Respondents

(R6 is Suo Motu Impleaded Vide Court Order Dated 30/10/2023 in WP(MD)No.20520 of 2014)

PRAYER in W.P(MD)No.20517 of 2014:- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, declaring that the proceedings of the 2nd respondent in A1/4122/1989 dated 13.01.1998 is illegal insofar as against the petitioner and his property in Sy.No.103/1 Vengalaneersamuthiram Village, Tuckarammalpuram, Palayamkottai Taluk, Tirunelveli District.

PRAYER in W.P(MD)No.20518 of 2014:- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to remove the wire fence put up by the 5th respondent in Petitioner s property in Sy. No. 103/1, Vengalaneersamuthiram Village, Tuckarammalpuram, Palayamkottai Taluk, Tirunelveli Dsistrict of measurign an extent of 13.5 cents in Plot No. 26 and restore the same to its original position by considering the petitioner's representation dated 17.11.2014.

PRAYER in W.P(MD)No.20519 of 2014:- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to remove the wire fence put up by the 5th respondent in Petitioner's property in Sy. No.



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99/1 Vengalaneersamuthiram Village, Tuckarammalpuram, Palayamkottai Taluk, Tirunelveli District of measuring an extent of 13.5 cents in Plot No. 70 and restore the same to its original position by considering the petitioner's representation dated 17.11.2014.

PRAYER in W.P(MD)No.20520 of 2014:- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to remove the wire fence put up by the 5th respondent in Petitioner's property in Sy. No. 99/1, Vengalaneersamuthiram Village, Tuckarammalpuram, Palayamkottai Taluk, Tirunelveli District of measuring an extent of 13.5 cents in Plot No.68 and restore the same to its original position by considering the petitioner's representation dated 17.11.2014.

For Petitioners : No appearance
For R1, R2, R4 & R5: Mr.M.Sarangan
Additional Government Pleader
For R3 : Mr.B.Thanga Aravindh
Government Advocate(Crl.side)
For R6 : Mr.T.A.Ebenazar
(In all WPs)

COMMON ORDER

WP(MD) No.20517 of 2014 is filed for a Declaration, declaring that the proceedings of the Revenue Divisional Officer,



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Tirunelveli/the second respondent herein in A1/4122/1989 dated 13.01.1998 as illegal insofar as the petitioner's property in Sy.No. 103/1 Vengalaneersamuthiram Village, Tuckarammalpuram, Palayamkottai Taluk, Tirunelveli District is concerned.

2.The other three writ petitions in WP(MD) No.20518 to 20520 of 2014 are filed for a Mandamus, directing the respondents to remove the wire fence put up by the Government Engineering College, Palayamkottai, Tirunelveli District/the fifth respondent herein in Petitioners' property and restore the same to its original position by considering their representation dated 17.11.2014.

3.The petitioners claim that they are the owners of the subject property, which have been acquired by the official respondents for the purpose of constructing an Engineering College. According to the petitioners, they have purchased the subject property from the Tirunelveli Diocesan Trust Association,



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Palayamkottai, Tirunelveli by way of a registered sale deed.

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4.Though the petitioners claim that they have purchased the subject property from the Tirunelveli Diocesan Trust Association, they have not impleaded the said Association as a party to these writ petitions. Therefore, this Court, by order dated 30.10.2023 has *suo motu* impleaded the Tirunelveli Diocesan Trust Association, Tirunelveli as a respondent in these writ petitions and a direction was issued to the Tahsildar, Palayamkottai Taluk, Tirunelveli District to conduct a survey on the subject lands and to file a report to that effect.

5.On15.11.2023, when these writ petitions were taken up for hearing, the learned Additional Government Pleader has filed a report of the Surveyor and submits that the subject lands acquired from the Tirunelveli Diocesan Trust Association fall well within the campus of the Government Engineering College, Tirunelveli. The learned Additional Government Pleader further submits that at the



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time of acquisition, the subject land stands in the name of the Tirunelveli Diocesan Trust Association and hence, notice was issued to the Diocese. The Manager of the Diocese has participated in the enquiry and thereafter only final award has been passed. The award amount has also been deposited in the Sub Court, Tirunelveli. The learned Additional Government Pleader has relied upon the order passed by this Court in WP(MD) No.4821 of 2014, dated 13.07.2023 and the relevant portion is extracted as under:-

6. The learned Additional Government Pleader appearing for the respondents relied on the decision of the Hon'ble Full Bench reported in AIR 1989 Mad 222(P.C.Thanikavelu Vs. The Special Deputy Collector for Land Acquisition, Madras). The Hon'ble Full Bench had held that the authorities are obliged to issue notice only to those whose names appear in the revenue record. If the purchaser of the land had failed to get his name entered in the revenue record, the authorities while acquiring the land are not obliged to notify him. The learned Additional Government Pleader also pointed out that this Judgment has been consistently followed. He relied on the decisions



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reported in 1999 (1) CTC 586 (P.Tamilarasan Vs. State of Tamil Nadu) and (2009) 3 MLJ 1322 (K.N.Soundarrajan and others Vs. State of Tamil Nadu).

7. *Judicial discipline dictates that I follow the aforesaid decisions. I therefore hold that failure on the part of the authorities to notify the petitioner before acquiring the petition mentioned land cannot be put against them. In any event, the fifth respondent can be said to have obtained illegally only if they had fenced the land belonging to the petitioner. Section 16 of the Land Acquisition Act, 1984 states that when one's possession is taken, it is vested in the Government free of all encumbrance. In the revenue record also, the land had been classified as Government poromboke. The fifth respondent cannot be faulted for having fenced the property. This writ petition is not maintainable. The petitioner will have to work out her remedy in the manner known to law.*

8. *With this liberty to the petitioner, the writ petition is dismissed. At the same time, equity obtaining in this case cannot be lost sight of. The petitioner as the land owner is entitled to seek enhancement of*



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the compensation. Under Section 18 of the Act, any person interested in the acquired land possesses such a right. Such right can be exercised only from the date when the amount is tendered to the petitioner. The petitioner was no where in the picture. Therefore, the question of limitation cannot be put against the petitioner. It is stated that a sum of Rs.27,000/- has been deposited before the civil Court. The petitioner is at liberty to seek withdrawal of the same. If any such application is made, it shall be allowed without notice. The petitioner through her counsel states that the amount awarded by the authorities is awfully inadequate and does not reflect the market value. I therefore direct the competent authority to make reference before the jurisdictional court for enhancement of the compensation. Such reference will be made within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

6. On the other side, the petitioners have taken a stand that they have purchased the lands from the Diocese in the years



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1972 and 1973. However, the revenue records have not been mutated in their favour. The diocese has also failed to inform the same to the revenue officials at the time of enquiry. According to the petitioners, they have not been provided any opportunity of hearing before passing the order.

7.The learned counsel appearing for the Tirunelveli Diocesan Trust Association submits that they have informed the sale of the subject lands to the Acquisition authorities.

8.There was no representation for the petitioner continuously for more than five hearings. Even today, when these writ petitions are taken up for hearing, there is no representation for the petitioners. Considering the fact that the issue is pending from the year 2014, this Court is inclined to dispose of these writ petitions with the available materials.



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9. According to the petitioners, they are the owners of the subject land, which was acquired by the respondents for the purpose of constructing an engineering college. The petitioners are having a sale deed executed by the Diocese. Their grievance is without any acquisition proceedings, the respondents have taken over their lands, which they have purchased by way of a registered sale deed. According to the learned Additional Government Pleader, though the petitioners claim that they have purchased the subject lands from the Diocese, the revenue records stand in the name of the Diocese. Therefore, notice was sent to the Diocese and the lands have been acquired in the year 1994 as per law. Though the learned counsel for the Diocese claims that they have informed about the sale of the subject lands to the acquisition authorities, he has not produced any sufficient materials to prove the same. It appears that being aware of the acquisition proceedings, the Diocese have failed to inform the authorities about the sale of the subject lands to the petitioners herein. As per the survey report, the subject lands fall well within the campus of the fifth respondent/ Engineering College and the fifth



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respondent has also fenced the property.

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10.In view of the fact that the revenue records stand in the name of the Diocese/the sixth respondent herein and no sufficient materials have been produced by the Diocese for having given information about the sale which has taken place well before the acquisition proceedings, these writ petitions are disposed of with a liberty to the petitioners to work out their remedy against the Diocese for their compensation, if any. No costs. Consequently, connected Miscellaneous petitions are closed.

08.12.2023

NCC : Yes / No.
Index : Yes / No.
Internet : Yes / No.
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To

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Tirunelveli,
Tirunelveli District.
- 2.The Revenue Divisional Officer,
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- 3.The Superintendent of Police,
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Tirunelveli District.
- 4.The Tahsildar,
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- 5.The Principal,
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B.PUGALENDHI, J.

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Common Order made in
W.P(MD)Nos.20517 to 20520 of 2014 and
WMP(MD) Nos.1,1,1,1 of 2014

08.12.2023