



W.P.(MD)No.16125 of 2015

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.16125 of 2015

N.Vijayalakshmi

... Petitioner

-Vs-

- 1.The District Collector,
Collector Office, Madurai District.
- 2.The Revenue Divisional Officer,
Revenue Divisional Office,
Usilampatti, Madurai District.
- 3.The Chief Engineer (WRO),
Public Works Department, (Water Resources Organization),
Madurai Zone, Madurai District.
- 4.The Deputy Director (Horticulture),
Horticulture Department,
Madurai-02.
- 5.The Executive Engineer,
PWD (Water Resources),
Sothupparai Water Reservoir Division,
Periyakulam, Theni District.



W.P.(MD)No.16125 of 2015

6.The Assistant Director (Horticulture),
Horticulture Department,
Usilampatti, Madurai District.

7.The Executive Engineer,
PWD (Water Resources),
Special Plan Division,
Thiruppathur, Sivagangai District.

8.The Executive Engineer,
PWD (Water Resources),
Special Plan Division,
Nanguneri, Tirunelveli District.

9.The Executive Engineer,
Gundaru Vadinela Division,
Madurai, Madurai District.

10.The Tahsildar,
Tahsildar Office,
Usilampatti Taluk, Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the 2nd respondent dated 02.09.2013 in Na.Ka.No. 1001/11/Aa1 and the consequential order of the 2nd respondent dated 05.05.2014 in Na.Ka.No.2153/2014/Aa1 and to quash the same as illegal and unconstitutional one and further more direct the 2nd respondent to pay the compensation for the balance 28 numbers of cashew nut trees which stands in petitioner's land in Patta No.986 & 327 in Survey Nos.303/2 & 303/3A to the extent of 1.43 acres and 0.46 acres totally 1.89 acres at Thottappanaickanur Village, Usilampatti Taluk,



W.P.(MD)No.16125 of 2015

Madurai District acquired by the respondents while “Aswamaanathi Dam” project at Thottapanaickanur Village, Usilampatti Taluk, Madurai District.

For Petitioner : Mr.R.Rajaraman

For Respondents : Mrs.K.Christy Theboral,
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2.The land belonging to the writ petitioner was acquired for forming “Aswamaanathi Dam”. In the process, the cashew trees planted on her land were removed. The petitioner was therefore entitled to compensation not only for the land but for the standing trees. It is not in dispute that as many as 35 cashew trees were standing on the petitioner's land. However, compensation was paid only for seven cashew trees. The petitioner's request was negatived by the 2nd respondent vide memo dated 02.09.2013 on the ground that compensation was paid for fruit yielding trees and for non-fruit yielding 28 trees, the question of paying compensation would not arise. The said communication was put under challenge in this Writ Petition.



W.P.(MD)No.16125 of 2015

WEB COPY

3.The learned counsel for the petitioner reiterated all the contents set out in the affidavit filed in support of this petition and called upon this Court to grant relief as sought for.

4.No counter affidavit has been filed by the 2nd respondent. Only, the 9th respondent has filed counter affidavit.

5.The learned Additional Government Pleader for the respondents submitted that the impugned order has been rightly passed and it does not call for any interference.

6.I carefully considered the rival contentions and went through the materials on record.

7.It is not in dispute that as many as 35 cashew trees were standing on the acquired land. The authorities have paid compensation only for seven trees. The question is whether they are liable to pay compensation for the remaining 28 trees.



W.P.(MD)No.16125 of 2015

WEB COPY

8. In the impugned memorandum, it has been stated that 28 trees were not fruit yielding trees. It is not known on what basis such a conclusion was arrived at. The impugned memo also does not indicate the basis. According to the petitioner, all the trees were eight years old. The petitioner had maintained them for over 8 years. The possibility of future yielding ought to have been taken into account. Since the impugned order is non-speaking, it is set aside. The matter is remitted back to the file of the 2nd respondent. The 2nd respondent shall make available the basic materials justifying the denial of compensation. The petitioner will be given time to respond. Thereafter, final order shall be passed by the 2nd respondent. The entire exercise shall be completed within a period of four months from the date of receipt of a copy of this order.

9. This Writ Petition is allowed on the above terms. No costs.

14.07.2023

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

Yuva



W.P.(MD)No.16125 of 2015

WEB COPY

To

- 1.The District Collector,
Collector Office, Madurai District.
- 2.The Revenue Divisional Officer,
Revenue Divisional Office,
Usilampatti, Madurai District.
- 3.The Chief Engineer (WRO),
Public Works Department, (Water Resources Organization),
Madurai Zone, Madurai District.
- 4.The Deputy Director (Horticulture),
Horticulture Department,
Madurai-02.
- 5.The Executive Engineer,
PWD (Water Resources),
Sothupparai Water Reservoir Division,
Periyakulam, Theni District.
- 6.The Assistant Director (Horticulture),
Horticulture Department,
Usilampatti, Madurai District.
- 7.The Executive Engineer,
PWD (Water Resources),
Special Plan Division,
Thiruppathur, Sivagangai District.
- 8.The Executive Engineer,
PWD (Water Resources),
Special Plan Division,
Nanguneri, Tirunelveli District.



W.P.(MD)No.16125 of 2015

WEB COPY

- 9.The Executive Engineer,
Gundaru Vadinela Division,
Madurai, Madurai District.
- 10.The Tahsildar,
Tahsildar Office,
Usilampatti Taluk, Madurai District.



WEB COPY



W.P.(MD)No.16125 of 2015

G.R.SWAMINATHAN, J.

Yuva

W.P.(MD)No.16125 of 2015

14.07.2023