



W.P.(MD)No.24104 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

W.P.(MD)No.24104 of 2023

and

W.M.P.(MD)Nos.20273 & 20274 of 2023

C.Anand Raj

: Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Special District Revenue Officer,
Land Acquisition,
SIPCOT,
Tirunelveli District.

3.The Special Tahsildhar,
Land Acquisition,
SIPCOT,
Tirunelveli District.

: Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Acquisition Notice in Se.Ma.Tho.E/435/Nilamkaiagam/2021 dated 02.01.2022 and the consequential notification in Se.Ma.Tho.E/044/Nilamkaiagam/2022 dated 30.01.2022 and consequential notification in Se.Ma.Tho.E/099/Nilam/2022 dated 13.03.2022 on the file of the second respondent published in tamil Vernacular Daily and quash the same as illegal and consequently forbear the second and third respondents from acquiring the grazing land used by the members of Scheduled caste community in S.Nos.1464, 1460, 1459, 1458/2, 1458/1, 1457, 1456/4, 1456/2, 1456/1, 1388, 1389/1, 1389/3, 1387/1, 1387/2, 1390/1, 1390/3, 1393/1, 1393/2, 1393/9, 1393/5, 1384/3, 1452/1, 1452/3, 1452/4, 1452/5, 1452/7, 1452/8, 1452/15, 1452/16, 1452/18, 1452/20, 1452/22, 1452/3 of Alavanthankulam Village, Manoor Taluk, Tirunelveli District within the time frame stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy
Senior Counsel
assisted by Mr.M.Mahaboob Fazil
For Respondents 1 and 3 : Mr.P.Thilak Kumar
Government Pleader



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ORDER

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[Order of the Court was made by M.SUNDAR, J.]

Captioned writ petition has been filed in this Court on 29.09.2023 as a 'Public Interest Litigation' ['PIL' for the sake of brevity].

2.Short facts shorn of elaboration are that lands comprised in S.Nos.1464, 1460, 1459, 1458/2, 1458/1, 1457, 1456/4, 1456/2, 1456/1, 1388, 1389/1, 1389/3, 1387/1, 1387/2, 1390/1, 1390/3, 1393/1, 1393/2, 1393/9, 1393/5, 1384/3, 1452/1, 1452/3, 1452/4, 1452/5, 1452/7, 1452/8, 1452/15, 1452/16, 1452/18, 1452/20, 1452/22, 1452/3 of Alavanthankulam Village, Manoor Taluk, Tirunelveli District' [hereinafter 'said land' for the sake of convenience and clarity] is being used as grazing land by Scheduled Caste families; that the said land is now sought to be acquired for industrial purpose pursuant to a notice dated 02.01.2022 bearing reference Se.Ma.Tho.E/435/Nilamkaiaagam/2021 and consequential notification dated 30.01.2022 bearing reference Se.Ma.Tho.E/044/Nilamkaiaagam/2022, followed by a notification dated 13.03.2022 bearing reference Se.Ma.Tho.E/099/Nilam/2022 on the file of the second respondent as published in a Tamil Daily;



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that the PIL petitioner is concerned for the community and PIL petitioner's burden of the song is that the acquisition for industrial purpose will affect the lifeline, livelihood and culture of the people concerned; that the PIL petitioner has sent a representation dated 07.09.2023; that fearing rapid acquisition captioned PIL petition has been filed in this Court.

3.Issue notice.

4.Mr.P.Thilak Kumar, learned Government Pleader accepts notice for respondents 1 and 3.

5.Mr.Lajapathi Roy, learned Senior Counsel, instructed by Mr.Mahaboob Fazil, learned Counsel on record for the PIL petitioner, advertng to the aforementioned facts drew our attention to sub-section 4 of Section 41 of 'The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013' [hereinafter 'Fair Compensation Act', for the sake of convenience]. To be noted, Section 41(4) of Fair Compensation Act reads as follows:

***'41.Special provisions for Scheduled
Castes and Scheduled Tribes.- (1)....
(2).....***



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(3).....

(4) In case of a project involving land acquisition on behalf of a Requiring Body which involves involuntary displacement of the Scheduled Castes or the Scheduled Tribes families, a Development Plan shall be prepared, in such form as may be prescribed, laying down the details of procedure for settling land right due, but not settled and restoring titles of the Scheduled Tribes as well as the Scheduled Castes on the alienated land by undertaking a special drive together with land acquisition.'

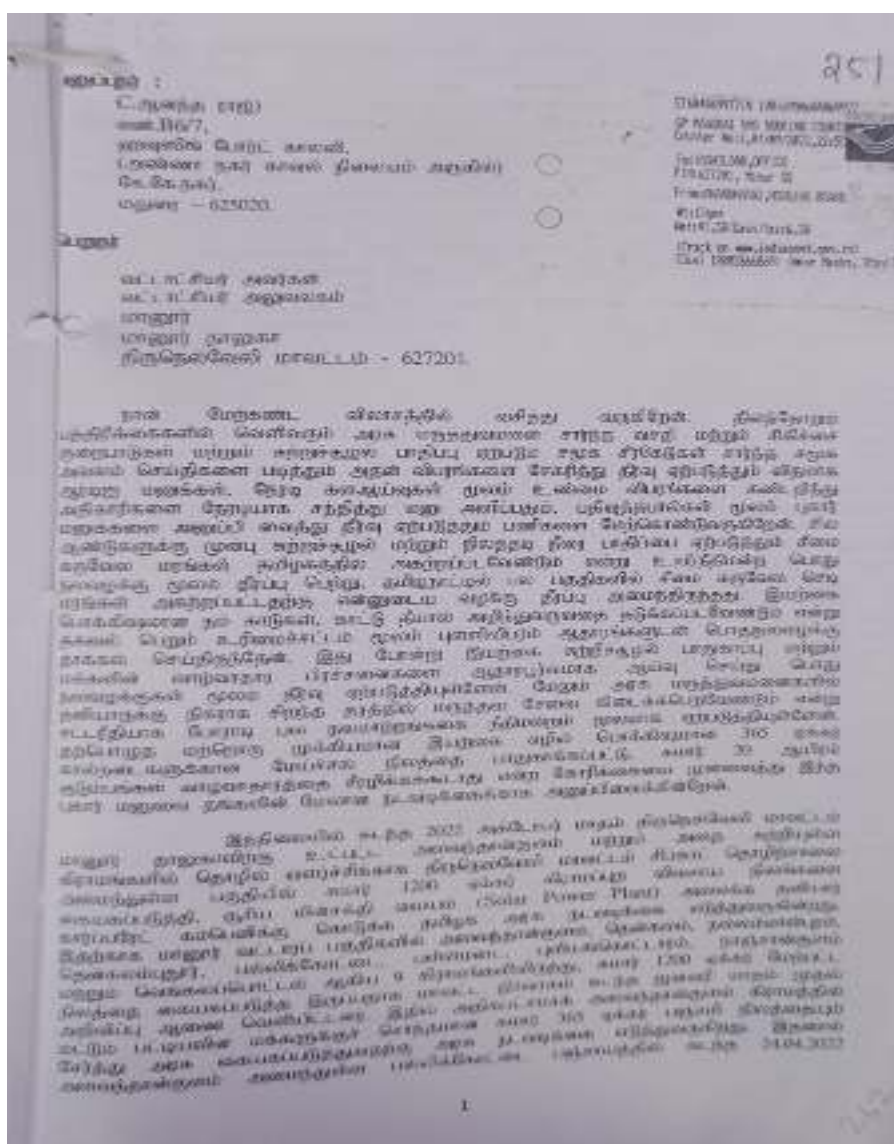
6.Adverting to the aforementioned provision, learned Senior Counsel submits that the proposed acquisition is one that will involve involuntary displacement of the aforementioned scheduled caste families in the aforementioned area and therefore, it is imperative that the Fair Compensation Act procedure and the rigor therein is adhered to very strictly.

7.In response to the aforementioned submission, learned State counsel submitted on instructions that acquisition will be in accordance with the statutory provisions be it the Fair Compensation Act or any other statute which provides for statutory acquisition of land for such purpose.



8. Be that as it may, considering the nature of the matter,

we deem it appropriate to say that it would be appropriate to direct disposal of the aforementioned representation dated 07.09.2023 and we further deem it appropriate to say that disposal of the aforementioned representation shall be by Respondent No.1. A scanned reproduction of this representation is as follows:





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மாற்றுக் 02.10.2022 ஆயிவ தெரிவிக்கப் பட்டபொழுது கட்டத்திற் போன்ற ரூபி
பிண்க்கத் ஸ்தலம் அமைப்பதற்கு ம.மு.பலித் தலைவரின் தலைமையில்
மாண்புமிகுக்கூடாது என்று தீர்மானம் தீர்மானிக்கப்பட்டது. 17.10.2022 தேதிக்கு
பிண்க்கத்திற்கு, அதற்கு உறுதியிடுவதற்கு என்று கூறத் தலைவர் அவர்களின் தலை
மாற்றுக் கூடாது என்று அனுமதி பெற்று தலைவர் அவர்களின் தலைமையில்
தேர்தல் உறுதியிடுவதற்கு ம.மு.பலித் தலைவர் மாண்புமிகுக்கூடாது என்று
கூடாது என்று தலைவர் அவர்களின் தலைமையில் தீர்மானம் தீர்மானிக்கப்பட்டது.
பிண்க்கத் தெரிக் கட்டப் பட்ட பிண்க்கத் தீர்மானம் தீர்மானிக்கப்பட்டது.
அதன் அமைப்பதற்கு மாண்புமிகுக்கூடாது என்று தலைவர் அவர்களின் தலைமையில்
தீர்மானம் தீர்மானிக்கப்பட்டது. 17.10.2022 தேதிக்கு

[illegible][illegible][illegible]



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[illegible]



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[illegible][illegible][illegible][illegible]

g,rah: 07.09.2023

File ID : 107691

Signature
C. J. Green
C. J. Green, Inc.



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9.The proceedings under Fair Compensation Act will continue pending disposal of the representation but if it reaches the dispossession stage, further proceedings will be post disposal of the representation and obviously depending on nature of disposal.

10.In the light of the narrative thus far, with the aforementioned rider, we dispose of the captioned PIL petition directing the first respondent to dispose of aforementioned representation dated 07.09.2023 as expeditiously as the business of the first respondent would permit but in any event, within eight [8] weeks ie., **by 29.11.2023.**

11.It is open to the first respondent to give an opportunity of personal hearing to the PIL petitioner if deemed necessary but we make it clear that it is imperative and it would be the discretion of the first respondent.

12.The proceedings / orders disposing of the aforementioned representation dated 07.09.2023 shall be communicated to the PIL petitioner under due acknowledgment within seven working days from the date of disposal. We also make it clear that post disposal all the rights and contentions of the PIL



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petitioner or anyone else concerned qua this matter will stand preserved.

13.Captioned PIL petition is disposed of in the aforesaid manner. There shall be no order as to costs. Captioned Writ Miscellaneous Petitions are also disposed of as closed.

[M.S.,J.] & [R.S.V.,J.]

04.10.2023

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

MR

To

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Special District Revenue Officer,
Land Acquisition,
SIPCOT, Tirunelveli District.

3.The Special Tahsildhar,
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M.SUNDAR, J.

and

R.SAKTHIVEL, J.

MR

ORDER MADE IN

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04.10.2023