



W.P.No.8000 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2024

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.8000 of 2019

1.K.Balakrishnan

2.K.Gokulan

3.K.Manoharan

4.T.Damadharan

5.N.Latha

6.N.Sumathi

7.A.Vijayalakshmi

8.Sujatha

9.V.Anitha

... Petitioners

Vs.

1.The Secretary to Government,
Department of Highways and Minor ports,
Fort St.George,
Chennai – 600 009.

2.The District Collector,
Tiruvallur District,
Tiruvallur.

3.The Tahsildar,
Avadi Taluk,
Avadi, Chennai – 600 054.

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4.The Defence Estate Officer,
Madras Circle,
No.306, Anna Salai,
Teynampet,
Chennai – 600 018.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Mandamus directing the respondents herein to hand over the lands comprised in Survey No.376, (now Survey No.376/1) measuring 20 cents and Survey No.377, (now Survey No.377/2) measuring 39 cents totalling in all 59 cents in Vellanur Village (Originally Saidapet Taluk) now Avadi Taluk, Tiruvallur District to the petitioners herein, on the basis of the representation through Lawyer's notice dated 12.10.2018.

For Petitioners : Mr.M.S.Subramanian

For Respondents 1 to 3 : M/s.M.Jayanthy
Additional Government Pleader

For Respondent 4 : No appearance

ORDER

The petitioner has filed this petition seeking direction to the respondents herein to hand over the lands comprised in Survey No.376, (now



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Survey No.376/1) measuring 20 cents and Survey No.377, (now Survey No.377/2) measuring 39 cents totalling in all 59 cents in Vellanur Village (Originally Saidapet Taluk) now Avadi Taluk, Tiruvallur District to the petitioners herein, on the basis of the representation through Lawyer's notice dated 12.10.2018.

2. The case of the petitioners is that the petitioners are the joint owners of the property which is the subject matter of the writ petition. By proceedings of the Special Deputy Collector, Acquisition of Requisitioned Lands at Avadi for defence use, the lands which are the subject matter of the writ petition were de-requisitioned in Rc.No.2761/72 L3 dated 31.01.1973. By the order of de-requisition, all the land owners are directed to come for enquiry. Except the lands in Survey No.376 measuring 20 cents and Survey No.377 measuring 39 cents, other lands were handed over to the petitioners. This being so, the petitioners have requested the Tahsildar, Ambattur Taluk to pay the compensation, since the above said lands have been used as road by the Government of Tamil Nadu, which is State Highway Road known as Avadi-Vanichatiram Road.



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2.1. The second petitioner has sent a representation dated 20.03.2012 seeking for payment of compensation for the above said lands, however till date no acquisition proceedings have been commenced by the authorities concerned. Thereafter, a lawyer's notice dated 12.10.2018 signed by the petitioners have been sent to the respondents. On receipt of the same, the fourth respondent has sent a reply dated 14.11.2018 stating that the lands are not under their control and requesting to approach the revenue department and there is no reply from the respondents 1 to 3 till date. Hence, the petitioners have come forward with the present writ petition.

3. When the matter was taken up for hearing, learned counsel for the petitioners submitted that though the aforesaid lands have been utilized by the Department of Highways for laying roads, the patta still stands jointly in the name of the petitioners and no acquisition proceedings has been initiated till date. He further submitted that since the said land is used as road, the same is not required to the petitioners. Hence, he prayed this Court that direction may be issued to the respondents to initiate acquisition proceedings and pay the compensation to the petitioners in accordance with law.



4. Learned Additional Government Pleader appearing for the respondents 1 to 3 submitted a counter affidavit dated 13.02.2024. For better appreciation, the relevant paragraph of the said counter is extracted hereunder:

“6. It is submitted that the pursuant to the orders passed by Hon'ble Court on 14.02.2022 in W.P.No.7226 of 2014, the Second Respondent has addressed the Divisional Engineer Highways, (Building and Maintenance) Department, Tiruvallur on 13.06.2022 and 04.08.2022 letter R.C.No.19990/2004/F3, for the provision of compensation to the land owners through Private Negotiation as ordered in the Government orders date 30.03.2012 and 12.04.2013. At this juncture the Petitioner/Petitioner have filed this Writ Appeal before this Hon'ble court.

7. With respect to the grounds raised in para 2 to 5, it is submitted that Government have accorded administrative sanction for the acquisition of the land in S.No.423, G.O.56 in Highways and Minor Ports Department, dated 30.03.2012 and the remaining S.Nos.424/1B, 425 and 426 in G.O.62, Highways and Minor Ports Department, dated 12.04.2013 Consequent on the restoration of entries as patta lands from the Classification of Poramboke lands in the revenue accounts in respect of S.No.424/1B, 425 and 426 made in the proceedings of the District Revenue Officer, Tiruvallur in Rc.No.5099/2012/B3, dated 10.04.2012. As the matter has been seized by this Hon'ble Court, further follow up actions in pursuant to the above



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Government orders dated 30.03.2012 and 12.04.2013 for acquiring the lands in issue through Private Negotiation. In pursuant to the orders passed by this Hon'ble court on 14.02.2022 in W.P.No.7226 of 2004, necessary proposals for allotment of funds for payment of compensation to the land owners for the acquisition through Private Negotiation by the Second Respondent/Second Respondent to the requisitions body is Rc.No. 19990/2014/F3, dated 13.06.2022 and 04.08.2022.

8. Regarding the grounds referred in para 6 to 9 and 11 and 12 it is submitted that the Government have already accorded administrative sanction for the acquisition of lands in G.O.Ms.56, Highways and Minor Ports Department, dated 30.03.2012 and in G.O.Ms.No.62, Highways and Minor Ports Department, dated 02.04.2013, through Private Negotiation to the order to finalize the land acquisition process at the earliest. Hence, there is no necessity to pursue land acquisition process in respect of the lands in issue under the Tamil Nadu Highways Act 2001. Further, process of land acquisition through Private Negotiation are completed within a short period of time. The acquisition of the lands through Private Negotiation is also having legal sanctity. Therefore the this grounds raised in this Paras process are not sustainable in the Court of law.

9. As regards the ground raised in para 10, it is submitted that in pursuant to the orders passed by this Hon'ble Court on 14.02.2022 in WP.No/7226 of 2004, the Second Respondents has addressed the Divisional Engineer, Highways (Buildings and Maintenance) Department, Tiruvallur for providing compensation payable to the land owners through



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Private Negotiation with interest payable upto 31.08.2022 in letter Rc. No. 19990/2004/F3, Dated 13.06.2022 and 04.08.2022. Acquiring Private lands through Private Negotiation for public purposes apart from the statutes the Highways Acts 2001, etc is also a mechanism which is intended for the sole purpose of completing the land acquisition within the utmost shortest time span.”

5. Heard the learned counsel on either side and perused the materials available on record.

6. In view of the above, this Court finds that the lands were taken over by the respondents without following the due procedure contemplated under any of the land acquisition laws. Hence, this Court directs the first respondent to initiate the land acquisition proceeding for the aforesaid land and pass appropriate orders in accordance with law, within a period of three months from the date of receipt of a copy of this order.

7. This Writ Petition is disposed of with the aforesaid observation and direction. No costs.

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Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

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J.SATHYA NARAYANA PRASAD,J.

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To:

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Department of Highways and Minor ports,
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