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W.P.No.32858 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2024

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THE HON'BLE MR. JUSTICE P.VELMURUGAN

W.P.No.32858 of 2018

and

W.M.P.No.38067 of 2018

C.Mohanarangan

... Petitioner

Vs.

1 The District Collector,
Kanchipuram District,
Kanchipuram.

2 The Special Tahsildar,
Land Acquisition,
I.T. Expressway Scheme,
Tambaram Taluk Office Building, Chennai 47.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the first respondent in Na. Ka. No.8186/2008/F1 dated 9.10.2018 and quash the same and further directing the respondents to award compensation to the petitioner prior to acquiring the land of the petitioner.



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For Petitioner : M/s.S.R.Aadhi Sree
for M/s.S.Parthasarathy

For Respondents : Mr.T.Arun Kumar
Additional Government Pleader

ORDER

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus to call for the records relating to the order passed by the first respondent in Na.Ka.No.8186/2008/F1 dated 9.10.2018 and to quash the same and further to direct the respondents to award compensation to the petitioner prior to acquiring the petitioner's land.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

3. Challenging the order dated 09.10.2018 passed by the first respondent, the petitioner is before this Court. The land in question was acquired by the respondents. The petitioner, on 20.09.2010, sent a



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representation to pay compensation for their acquisition and on 16.12.2013, the second respondent called for enquiry regarding payment of compensation. The petitioner appeared for the enquiry on 19.02.2014 and sought Rs.5,000/- per square feet as compensation. The respondents did not pay the compensation. The petitioner further stated that since the petitioner's land lies under the category of "Grama Natham", the respondents did not pay the compensation. The petitioner was in possession for more than 50 years by putting up construction. Therefore, the petitioner's property was classified as "Natham". Neither the respondents nor the Government are the owner of the property in question. However, the petitioner earlier filed a writ petition in W.P.No.5886 of 2017 for declaration, forbearing the respondents from evicting him from the property. On 15.06.2017, this Court has given direction to determine the compensation by treating the land in question as a private land. As against the order passed in W.P.No.5884 of 2017, the respondents have filed appeal in W.A.No.290 of 2018 and a Division Bench of this Court on 26.06.2018, directed the respondents to consider the entire documents produced by the petitioner before them and to pass



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the order. Based on the said order, the respondents have passed the impugned order dated 09.10.2018, stating that the petitioner has not produced any document prior to 1966, to prove his possession over the said property. The petitioner was in possession of the property which is a “Natham vacant land”. Therefore, no document was produced prior to 1966. On 14.11.2018, the petitioner sent a representation stating that he was in possession of the property since 1966 and prior to that, the property was in possession of one Ramachandran and Nagaraj and prior to that their ancestors were in possession of the property. Then, the petitioner has purchased the property and had made pucca construction and the property is also assessed to property tax. Prior to that, taxes were paid by his vendor's predecessor and further, one T.Veerabathran having the property in S.No.645/34, had applied for Patta and obtained the same, whereas, the petitioner's application was not considered by the second respondent/Tahsildar till date. The vendor of the petitioner and the abovesaid Veerabathran is one and the same person. Since the petitioner and their predecessors did not apply for Patta, it does not mean that they are not entitled for the compensation. The first respondent acquired land



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in question for improvement into four Lane of the Link Road between Old Mahabalipuram Road to East Coast Road, and awarded compensation to the persons who had occupied the “Grama Natham Poramboke”. Since the first respondent did not consider the petitioner's representation dated 14.11.2018, the petitioner has filed the present writ petition.

4. Learned Additional Government Pleader appearing for the respondents submitted that they have paid compensation to the petitioner for the superstructure that was acquired. Since the property is the Natham vacant site”, the petitioner did not obtain Patta and he was not the owner of the property. However, compensation was paid for the superstructure. Therefore, the imupugned order came to be passed.

5. Admittedly, the subject land was classified as “natham land”. It is well settled proposition of law that the Government is not the owner of the “Natham land”. Natham is meant only for house-site. The person who is occupying the “Natham land”, can enjoy the property for the



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purpose of putting up construction for dwelling purposes. If the possession is recognized then the person is entitled for grant of Patta. It is seen that the property acquired from the petitioner is a natham land. The vendor of the petitioner purchased the property in the year 1966. Thereafter, the petitioner's father purchased the property from the vendor and they executed a settlement deed. Subsequently, the property in question was allotted to the petitioner and he had put up a construction thereon. The possession of the land was admitted by the petitioner and the respondents have also acquired the land and compensation has also been paid for the superstructure. However, the respondents refused to pay the amount for the land. According to the respondents, the subject land is a Natham land” and the petitioner has not even obtained Patta. Since the ownership of the land was not established, the respondents have refused to pay the compensation.

6. In the batch of writ petitions in W.P.Nos.7517, 7518 & 5884 of 2017, this Court on 15.06.2017 directed the respondents therein who are respondents herein, to determine the compensation by treating the lands



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in possession of the petitioners therein as private land, within a period of eight weeks from the date of receipt of copy of that order. Challenging the same, the respondents have filed a batch of Writ Appeals in W.A.Nos.290 to 292 of 2018, in which a Division Bench of this Court directed the official respondents to dispose of the representation as early as possible at any rate within a period of eight weeks. Thereafter, without obeying the order of this Court, the respondents have passed the impugned order.

7. It is well settled proposition of law that the Government is not the owner of “Natham land”. The “Natham land” is meant only for house- site. The person who is in occupation can put up the construction. The Government, on recognition of his/her possession, can issue patta. The role of the Government is only to find out the possession and to issue patta. Regarding the natham land, the respondents have admitted the possession of the same by the petitioner who had put up superstructure, and the compensation was also paid. Since there is no patta for the land, the respondents have not paid the compensation, stating that the



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ownership of the land had not been established till now. Since it is a “Natham land”, nobody is the owner, especially, the Government itself is not the owner of the land. The person who is occupying the land, can put up dwelling house for residential purpose. The respondents have admitted the possession of the petitioner and also the construction of residential house and accepted to pay compensation. Since the respondents are not the owner of the land in question, they cannot deny compensation for the land. Earlier, in a batch of Writ Petitions in W.P.Nos.7517, 7518 & 5884 of 2017, this Court passed the following order on 15.06.2017:

6. However in as much as the petitioners have not challenged the eviction proceedings and there is no rationals between the acquisition proceedings qua possession as against the compensation, the prayer sought for against the proposed eviction cannot be sustained. Therefore, the only other question is with respect of the compensation.



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7. In the light of the discussion made above, this Court is of the view that the petitioners are entitled for compensation by treating their lands on par with the private lands.

8. Accordingly, this writ petition stand disposed of by directing the respondents to determine the compensation by treating the lands in possession of the petitioners as private lands within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Challenging the abovesaid order, the respondents filed an appeal in a batch of Writ Appeals in W.A.Nos.290 to 292 of 2018, a Division Bench of this Court has passed the following order on 26.06.2018:

“ The Collector shall consider the entire documents produced by the respondents to take a decision as to whether they are entitled to compensation.



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While taking such decision, the Collector shall also take not of Section 15(2) and Section 18 of the Tamil Nadu State High Ways Act 2001. The order must contain the reasons for taking decision one way or the other. It is open to the respondents to produce additional documents if any in support of their contentions that they are entitled to receive compensation on account of the acquisition. The respondents must also be given liberty of personal hearing before passing final orders by the District Collector, Kancheepuram. We make it clear that the District Collector shall consider the matter independently notwithstanding the contentions taken in the counter affidavit.

12. We direct the District Collector/first appellant to dispose of the matter as expeditiously as possible and in any case, within a period of eight weeks from the receipt of this judgment. The status quo as on today with regard to the possession of the land shall be maintained



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till the disposal of the matter by the District Collector.

13. The intra court appeals are disposed of with the above direction. No costs. Consequently connected miscellaneous petitions are closed.

8. In this case, the respondents have admitted that the petitioner was in possession of the property and also admitted that they have paid the compensation for the superstructure. However, they denied compensation for the land alone, for the reason that the land is a “Natham land” and no Patta would be granted to the petitioner. As already stated, the Government is not the owner of the “Natham land” and the occupants are entitled to get Patta. Hence, the occupants are the owners of the property. The possession of the petitioner is accepted, eviction of the petitioner from the subject property is also admitted and the payment of compensation for the superstructure is also admitted by the respondents.

9. In view of the above facts and circumstances, the reasons stated



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in the impugned order passed by the respondents, are not acceptable and the impugned order is liable to be set aside. Accordingly, the impugned order passed by the first respondent, is quashed. The respondents are directed to pay the compensation to the petitioner in accordance with law in respect of the property in question.

10. With the abovesaid directions, the Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No



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