



W.P.(MD)No.17421 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.08.2024

CORAM:

THE HONOURABLE **MR.JUSTICE N.SATHISH KUMAR**

W.P.(MD)No.17421 of 2024
and W.M.P(MD)No.14947 of 2024

D.Jegatheeswari

... Petitioner

/Vs./

1.The Competent Authority/Special District Revenue,
Officer (L.A).,NH-744, Viruthunagar

2.The Deputy General Manager (T) and Project Director,
National Highways Authority of India,
Madurai.

3.The Special Tahsildar (L.A).,
NH-744, Unit-1,
Thirumangalam,
Madurai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of mandamus forbearing 1 to 3 respondents not to evict the petitioner from the property situated in Survey No.34/1A (New S.No. 34/1A2) measuring about 80 cents of land out of 1 acre 49 cents at T.Pudupatti Village, Thirumangalam Taluk, Madurai District till the respondents settle total compensation amount for acquisition of above said land as per Award in Award No.43, dated 24.06.2022 and



W.P.(MD)No.17421 of 2024

WEB COPY

supplementary award No.91/2023 dated 29.05.2023 within a time frame as stipulated by this Court.

For Petitioner	: Ms.J.Anandhavalli
For R2	: Mr.K.Govindarajan Deputy Solicitor General for Mr.P.Karthick
For R1 & R3	: Mr.D.Sadiq Raja Additional Government Pleader

ORDER

This Writ Petition has been filed to issue a writ of mandamus forbearing the respondents 1 to 3 not to evict the petitioner from the property situated in Survey No.34/1A (New S.No.34/1A2) measuring about 80 cents of land out of 1 acre 49 cents at T.Pudupatti Village, Thirumangalam Taluk, Madurai District till the respondents settle total compensation amount for acquisition of above said land as per Award in Award No.43, dated 24.06.2022 and supplementary award No.91/2023 dated 29.05.2023 within a time frame as stipulated by this Court.

2. It is the case of the writ petitioner that the land in Survey No. 34/1A (New S.No.34/1A2) measuring about 80 cents of land out of 1



W.P.(MD)No.17421 of 2024

WEB COPY

acre 49 cents at T.Pudupatti Village, Thirumangalam Taluk, Madurai District, was acquired based on the notification issued on 03.07.2020 for the purpose of widening the road. According to the writ petitioner, the award has been passed on 24.06.2022 and supplementary award No. 91/2023 was passed on 29.05.2023 in which the value of compensation was fixed at Rs.3,82,03,052/-. However, without paying the said amount, the respondents tried to evict them. Hence, the writ petition has been filed.

3. A counter affidavit is filed by the 2nd respondent. The crux of the counter affidavit is that the award, which was referred in the writ petition dated 24.06.2022, is not a final award and it is only a draft award. Subsequently, award is also not finalized. It is their contention that the value of the trees assessed by the High Ways Department is not correct. According to them, on the date of notification, there was no fruit bearing trees available in the said land. Therefore, according to them, a draft award has been passed



W.P.(MD)No.17421 of 2024

and thereafter, a supplementary award has been passed on 29.05.2023 in award No.91/2023 and the same has been cancelled vide ROC.No.A1/166/2021 dated 11.07.2024. Hence, the respondents opposed the writ petition.

4. The learned counsel appearing for the petitioner would submit that the draft award as well as supplementary award No.91 of 2023 and subsequent correspondence between another department clearly show that the award has already been passed. According to the learned counsel for the petitioner, once the award is passed, the same cannot be cancelled. Having valued the trees in the land, they cannot take a different stand that there are no fruit bearing trees available in the subject land. Hence, the learned counsel submits that unless the amount is deposited, they cannot be evicted from the land.

5. The learned Deputy Solicitor General would submit that what was relied upon by the petitioner is a draft award which has



W.P.(MD)No.17421 of 2024

been cancelled later on 11.07.2024. Now fresh order has to be passed by the Revenue Divisional Officer by taking into account various factors. According to them, there is no trees available. Hence, he submitted that once award is passed and deposited the amount as per law and if the petitioner has any grievance over the award, the only remedy as against the award is to challenge the same before the Arbitration Tribunal. He would further submit that the award will be passed after ascertaining the facts once again by the experts.

6. Heard the learned counsel for the petitioner, learned Deputy Solicitor General appearing for the 2nd respondent and the learned Additional Government Pleader appearing for the respondents 1 and 2.

7. Though the case is filed relying upon the award said to have been passed, as rightly submitted by the Deputy Solicitor General,



W.P.(MD)No.17421 of 2024

the said ward is only a draft award and thereafter, supplementary award has been passed and the same was cancelled. The dispute has been raised by the respondents and the assessment made with regard to the trees is not true assessment. According to them, on the date of notification, there was no trees and only saplings have been available.

8. Be that as it may, this Court is not inclined to enter into the disputed fact. Now, it is stated that the award is a draft award and the supplementary award has already been cancelled and fresh award has to be passed by the 1st respondent. It is submitted by the learned Additional Government Pleader that the 1st respondent, before passing an award, will do the exercise by assessing the value of the trees also and if the trees are available as on the date of notification, the age of the trees would be taken note of by the 1st respondent.



W.P.(MD)No.17421 of 2024

WEB COPY

9. In such view of the matter, as fresh award will be passed by the first respondent, remedy of the petitioner will lie either to accept the award or challenge the same in the manner known to law not by way of Writ Petition. However, the award shall be passed within a period of four weeks from the date of receipt of a copy of this order.

10. With the above observations and direction, this writ petition is disposed of. No cost

12.08.2024

Index : Yes / No
NCC : Yes / No
CM

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W.P.(MD)No.17421 of 2024

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W.P.(MD)No.17421 of 2024

N.SATHISH KUMAR, J.

CM

Order made in
W.P.(MD)No.17421 of 2024
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and W.M.P(MD)No.14947 of 2024

Dated:
12.08.2024