



W.P.(MD) No.29198 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.29198 of 2022

P.Vallinayagam

.. Petitioner

Vs.

1.The District Collector,
Tirunelveli,
Tirunelveli District.

2.The Special Thasildhar (Land Acquisition),
Tamirabarani Inter-linking
Karumaniyaaru and Nambiyar,
Palayankottai Taluk, Tirunelveli District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call for the records on the file of the first respondent in his proceedings in Na.Ka.J3/6738/2022 dated 05.11.2022 and quash the same and consequently direct the respondents to grant enhanced fair and just compensation for the land acquired for formation of Tamirabarani Inter-linking Karumeniyaru and Nambiyaru in petitioner's land in Survey No. 51, New Survey No.51/4 at Senkulam Village, Palayankottai Taluk, Tirunelveli District.



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For Petitioner : Mr.D.Selvanayagam
For Respondents : Mr.B.Saravanan
Additional Government Pleader

ORDER

The petitioner has filed this writ petition for the following relief:

“For the reasons stated in the accompanying affidavit, it is therefore prayed that this Hon'ble Court may be pleased to issue a WRIT OF CERTIORARIFIED MANDAMUS to call for the records on the file of the 1st Respondent in his proceedings in Na.Ka.J3/6738/2022 dated 05.11.2022 and quash the same and consequently direct the respondents to grant enhanced fair and just compensation for the land acquired for formation of Tamirabarani Inter-linking Karumeniyaru and Nambiyaru in my land in Survey No.51, New Survey No.51/4 at Senkulam Village, Palayankottai Taluk, Tirunelveli District and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.”



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2. The case of the petitioner is that he owns an extent of 3 Acres 53 Cents in New Survey No.51/4 at Senkulam Village, Palayankottai Taluk, Tirunelveli District. It is his patta land. The lands in question were classified as “nanja lands”. An extent of 1 Acre 61 Cents out of the total extent of 3 Acres 53 Cents was reclassified as “punja lands” and acquired by the second respondent for formation of floor carrier channel by inter-linking Tamirabarani, Karumeniyar and Nambiyar Projects. The petitioner had therefore, filed a claim petition before the Principal Subordinate Judge, Tirunelveli in L.A.O.P.No.4 of 2013 and an award was passed on 22.06.2016 in his favour. The amount of compensation was also deposited into the Court. Since the amount was very meagre, some of the land owners filed appeal and obtained higher compensation.

3. The petitioner would submit that he has not received any amount from the respondents and the compensation awarded to him was much less. Therefore, he had made a detailed representation to the respondents on 18.02.2022 seeking enhancement of compensation, since the Right to Fair Compensation and Transparency in Land Acquisition,



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Rehabilitation and Resettlement Act, 2013 had come into force and the determination of amount of compensation was set out in Section 73 therein. The first respondent had forwarded the petitioner's representation to the second respondent *vide* his proceedings dated 24.02.2022 and since no orders were passed, the petitioner filed W.P. (MD) No.5403 of 2022 before this Court to get enhanced compensation for the lands. This Court, *vide* its order dated 28.03.2022 disposed of the writ petition directing the respondents to consider the petitioner's representation dated 18.02.2022 and pass orders within a period of six months from the date of receipt of a copy of the order. It is thereafter, the first respondent passed order dated 05.11.2022 rejecting the petitioner's request and challenging the same, the petitioner is before this Court.

4. Heard the learned counsel on either side.

5. A perusal of the impugned order would indicate that the lands had been acquired much prior to the coming into force of the Right to



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Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and the lands had been acquired under the earlier Land Acquisition Act, 1894 and compensation cannot be granted on the basis of new Act.

6. The first respondent had failed to observe that under Section 28A of the Land Acquisition Act, in case a higher compensation has been granted to a owner of a very same survey number, even without filing an appeal, the land owner is entitled to claim the very same compensation that has been granted to the other owner and therefore, in the light of the above provision, the order passed by the first respondent is totally erroneous and has to be set aside.

7. Accordingly, this Writ Petition is allowed, the impugned order dated 05.11.2022 passed by the first respondent is set aside and the matter is remitted back to the first respondent. The first respondent is directed to consider the representation of the petitioner in the light of Section 28A of the Land Acquisition Act, 1894 and pass orders within a



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period of one month from the date of the initiation of the enquiry. The enquiry notice shall be issued within a period of two weeks from the date of receipt of a copy of this order. No costs.

30.09.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes

abr

To

- 1.The District Collector,
Tirunelveli,
Tirunelveli District.
- 2.The Special Thasildhar (Land Acquisition),
Tamirabarani Inter-linking
Karumaniyaaru and Nambiyar,
Palayankottai Taluk, Tirunelveli District.



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P.T.ASHA, J.

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Dated: 30.09.2024
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