



W.P.(MD) No.8323 of 2019

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:24.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.(MD) No.8323 of 2019
and
W.M.P(MD)No.6511 of 2019

1.M.Mohamed Mustafa
2.M.Mohideen

... Petitioners

vs.

1.The District Collector,
Sivagangai,
Sivagangai District.

2.The Special Tahsildar (Land Acquisition)
National Highways Authority of India, NH-49,
Alagu-I Office, Manamadurai,
Sivagangai District.

3.The Special District Revenue Officer (DRO)
Ramanathapuram,
Ramanathapuram District.

4.The Assistant Director,
National Highways Authority of India,
NH-49, Ramanathapuram.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the third respondent to disburse the



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compensation amount along with interest at the prevailing commercial rate for the land as well as the 35 coconut trees admeasuring 0.23.5 hectares comprised in S.No.182/2 part situated at Thoothai Village, Thiruppuvanam Taluk, Sivagangai District.

For Petitioner : Mr.Jaseem Mohamed
for M/s.S.C.Herold Singh

For Respondents : Mr.C.Satheesh
Government Advocate for R1 to R3

Mr.Arul Vadivel @ Sekar
Senior Counsel
for M/s. C.Arulvadivel Associates for R4

ORDER

The petitioners have filed the instant writ petition seeking issuance of a Writ of Mandamus to direct the third respondent to disburse compensation amount along with interest, in respect of the land acquisition proceedings, which has been initiated against the petitioners in respect of S.No.182/2.

2.According to the petitioners, the lands were acquired and the award also came to be passed on 02.12.2014. It is the further case of the petitioners that despite production of title deeds as well as patta standing in the name of the



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petitioners, the authorities have not paid compensation for the lands acquired from the petitioners in S.No.182/2 and erroneously withheld the amount on the ground that the petitioners have not satisfied the authority about their title.

3.The learned counsel for the petitioners would submit that physical possession has also not been taken from the petitioners. It is also the admitted case of the petitioners that in respect of other survey numbers and neighboring land owners, compensation has been disbursed and only in respect of S.No.182/2 the compensation has been withheld, on the ground of reclassification of the lands as 'Government tharisu lands'. The learned counsel for the petitioners further relied on the following decisions of the Hon'ble Supreme Court of India, ie., **(i) *Hinch Lal Tiwari Vs. Kamala Devi and Ors.*, reported in (2001) 4 Scale 670; (ii) *Mahavir & Ors. Vs. Union of India & Anr.*, reported in 2018 3 SCC 588; and *Ramesh Chandra Sharma & Ors. Vs. State of Uttar Pradesh & Ors.*, reported in 2023 LiveLaw (SC) 123**, in support of his contentions. In ***Mahavir & Ors. Vs. Union of India & Anr.*, reported in 2018 3 SCC 588**, the Hon'ble Supreme Court of India held that the new enactment, namely, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Settlement Act, 2013, was



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only to help the persons deprived of compensation and have been litigating for decades for quashing of proceedings initiated against them. In a more recent Judgment, in ***Ramesh Chandra Sharma & Ors. Vs. State of Uttar Pradesh & Ors.***, reported in ***2023 LiveLaw (SC) 123***, the Hon'ble Supreme Court of India held that the purpose of acquisition of the land is for the benefit of the public at large, then the nature of the owner of the said land is inconsequential to the purpose and if such a classification on the basis of the nature of owner is allowed, then on the same grounds, there might be a possibility of future classifications where power holding members of the society may get away with a larger compensation, and the marginalized may get lesser compensation. The Hon'ble Supreme Court of India also held that the Act does not distinguish between classes of owners and uniformly provides compensation to all class of landowners.

4.The learned Government Advocate appearing for the official respondents 1 to 3 would submit that the lands have been classified as 'Government tharisu lands' and therefore, the petitioners are not entitled to compensation.



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6. The learned Government Advocate would submit that the averment made by the petitioners in the affidavit that possession still continues to be the petitioners is totally erroneous as the possessions had already been taken even in respect of S.No.182/2. Even the compensation was determined at Rs,4,10,480/- and was withheld only on the ground of classification of S.No.182/2 as 'Government assessed dry waste'.

7. I have carefully considered the submissions advanced by the learned counsel on either side.

8. On going through the counter affidavit filed by the second respondent as well as the fourth respondent, it is clear that the respondents admit the factum of purchase of lands in S.No.182/2 by the petitioners. In fact, at paragraph 5 of the



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counter affidavit of the second respondent, the second respondent affirms the fact that the petitioners have purchased the lands in S.No.182/2 under a registered sale deed and that patta was also mutated in the name of the petitioners in Patta No.490. The petitioners have also produced the said patta along with the typed set of papers. It clearly indicates that the petitioners' names have been mutated in the revenue records and patta was also issued in Patta No.490. The patta transfer application, it is also enclosed, which also evidences the fact that the earlier patta was mutated in the name of Chinnaponnu, the vendor of the petitioners, from whom the petitioners have purchased the property and thereafter, the patta transfer application has also been considered positively and the revenue records have been mutated in the name of the petitioners. While so, after the land acquisition proceedings, it is not open to the authorities to content that the lands have been reclassified as 'Government dry waste' and therefore, the petitioners are not entitled to compensation. The counter affidavit filed by the respondents themselves would be sufficient to justify the claim of the petitioners. The respondents, especially the second respondent, has filed two affidavits before this Court and the averments are mutually contradicting each other. At one place, the second respondent states that the petitioners had not produced any documents to



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establish title to S.No.182/2. However, on the contrary, in the very same affidavit, at an other place, the second respondent states that the petitioners had purchased the subject S.No.182/2 under registered sale deed Document No.794/1996, dated 11.04.1996 and subsequently patta was also mutated in the names of the petitioners.

9.The lands have been acquired for widening of the National Highway No.49 and admittedly, the respondents have also acknowledged the right of the petitioners while issuing notice to the petitioners to appear for enquiry under Section 3G(3) of the National Highways Act, 1956. Therefore, having undertaken such an exercise at the time of the acquisition proceedings and the award also having been passed, the respondents cannot turn around and contend that the lands have been reclassified as 'Government dry lands' and therefore the petitioners were not entitled to compensation. The counter of the second respondent as well as the fourth respondent also only suggests that the compensation has been withheld only because of the reclassification of the lands as 'Government dry waste lands' in 2014-15 under 'Tamil Nilam Scheme' and the patta in favour of the petitioners has been cancelled. When the acquisition



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proceedings acknowledged the entitlement of the petitioners to the lands in S.No.182/2, the authorities have erroneously proceeded to hold that the petitioners were not entitled to compensation because of want of sufficient documents and that later the lands have been reclassified and patta had been deleted since the lands in S.No.182/2 are 'Government assessed dry waste' and accordingly, recorded in 'A' register of Thoothai Village. Therefore, to deny the compensation to the petitioners in respect of S.No.182/2 would be highly improper and unjust. The very purpose of the land acquisition enactment is to not only acquire lands for laudable public purposes, but at the same time adequately compensate landowners, who suffer because of the acquisition proceedings. Here, admittedly, the respondents have referred to the documents that have been relied on by the petitioners, namely, the sale deed as well as the patta, but subsequently relying on a 2014-15 scheme, they claim that the lands have been reclassified and therefore, the petitioners are not entitled to compensation.

10. Admittedly, in the present case, in respect of other lands adjoining these subject lands in S.No.182/2, compensation has been paid to the petitioners. Insofar as the aspect of possession, I am unable to countenance that the said



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submission of the learned counsel for the petitioners that the petitioners continue to be in physical possession. The award came to be passed and compensation has also been determined and even paid in respect of the adjoining survey numbers to the petitioners themselves. It is not open to the petitioners to now contend that the petitioners continue to be in physical possession of the lands in S.No.182/2 alone. In fact, if such a contention is accepted, then the question of payment of compensation itself would not arise without possession being delivered to the authorities.

11.Be that as it may, it is clear that the respondents have already taken possession and the entitlement of the petitioners to compensation alone in respect of S.No.182/2 is at large before this Court in the present writ petition. For all the foregoing reasons and discussions, I deem it fit to direct the third respondent to release the declared compensation amount of Rs.4,10,480/-, together with interest at the rate of 6 % per annum, from 01.01.2015, **on or before 31.03.2025**. If the entire principal amount, along with interest is not paid on or before 31.03.2025, then the petitioners shall be entitled to interest at the rate of 9% per annum on the unpaid amount from **01.04.2025**.



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12. With the above observations and directions, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

24.02.2025

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NCC: Yes/No

Index : Yes / No

Internet : Yes / No

To

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Sivagangai,
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