



W.P.(MD)No.16796 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2025

CORAM:

THE HON'BLE MR.JUSTICE P.B. BALAJI

W.P.(MD).No.16796 of 2023

and

W.M.P(MD).Nos.14031 and 14035 of 2023

R.Manohar

... Petitioner

Vs.

1. The District Collector,
Virudhunagar District,
Virudhunagar.
2. The Land Acquisition Officer/District Revenue Officer,
Collectorate Complex,
Virudhunagar,
Virudhunagar District.
3. The Southern Railway,
Rep. through its General Manager,
Chennai.
4. M/s.Rail Vikas Nigam Limited,
Rep. by its Deputy General Manager,
Mezzanine Floor,
Thirumylai Railway Station Complex,
Mylapore,
Chennai – 600 004.

... Respondents



W.P.(MD)No.16796 of 2023

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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.D1/27684/2016 dated 15.06.2023 and quash the same on the ground that the same is arbitrary, illegal and without any legal basis and consequently directing the respondents to make spot inspection with relevant documents for determination of the correct market value of the property comprised in T.S. Nos.3/1, 3/2, 6, 7, 8, 18/1, 18/2 Part, 19/1 and 19/2 comprised within the Sattur Municipal limit.

For Petitioner : Mr.R.Aravindan

For R1 and R2 : Mr.S.Kameswaran
Government Advocate

For R3 : Mr.K.Govindarajan
Deputy Solicitor General

For R4 : No Appearance

ORDER

The petitioner has filed the present writ petition seeking issuance of writ of certiorarified mandamus to quash the impugned proceedings in Na.Ka.No.D1/27684/2016 dated 15.06.2023.



W.P.(MD)No.16796 of 2023

WEB COPY

2. The learned counsel for the petitioner submits that the valuable rights to property of the petitioner guaranteed in the Constitution of India have been snatched away by the official respondents. Though the petitioner's property has been acquired, a portion of the property has not even put to use. However, the authorities are depriving the legitimate compensation payable to the petitioner. The petitioner therefore challenges the impugned proceedings dated 15.06.2023. The learned counsel for the petitioner would also invite my attention to the order of this Court in W.P(MD).No.5559 of 2022 and etc., batch dated 23.02.2023, where the petitioner had approached this Court challenging the notification itself withdrawing a portion of the petitioner's property from acquisition at the instance of the 5th and 6th respondents.

3. This Court disposed of the batch of writ petitions holding that in respect of the lands acquired, the petitioner will have to be paid due compensation applying the formula in terms of the Central Act 30 of 2013. This Court also recorded the factum of possession being taken on 01.08.2018 and gave liberty to the petitioner to put the remaining property

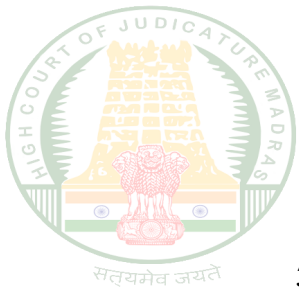


W.P.(MD)No.16796 of 2023

WEB COPY

to use and the process of determination of compensation and disbursement was directed to be completed within a period of 8 weeks. Pursuant to this order alone, the Impugned Award no.12 of 2023 has been passed on 15.06.2023. The said Award is now under challenge in the present writ petition on the ground that without following the directions issued by the Court in the earlier round of litigation viz., W.P(MD).No.5559 of 2022 and etc., batch dated 23.02.2023, the Award has been passed and therefore, the petitioner is entitled to challenge the said Award by way of writ petition.

4. Per contra, learned Deputy Solicitor General Mr.K.Govindarajan, appearing for the 3rd respondent would invite my attention to the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, more specifically Section 74 providing for an appeal to be filed before this Court, if the land owner is aggrieved by the award passed, determining compensation in respect of lands acquired from the land owner. Therefore, the contention of the learned Deputy Solicitor General is that when an effective and efficacious remedy is available by way of appeal under Section 74, the present writ petition under Article 226 is not maintainable.



W.P.(MD)No.16796 of 2023

WEB COPY

5. I have carefully considered the submissions made on either side and perused the materials available on record.

6. As rightly contended by the learned Deputy Solicitor General, the Act provides for the land owner to challenge the Award passed by filing an appeal to this Court. Admittedly, the impugned proceedings which is challenged in the writ petition is nothing but an award determining compensation, pursuant to the order of this Court in W.P(MD).No.5559 of 2022 and etc., batch dated 23.02.2023.

7. The petitioner, no doubt, is aggrieved by the determination of compensation under the said Award. The proper remedy available to the petitioner is only to approach this Court by preferring a statutory appeal under Section 74 of the Act and not by invoking the writ jurisdiction of this Court under Article 226 of the Constitution of India. However, at the same time, the matter being pertaining to compensation for land acquired as early as on 2018, the petitioner cannot be deprived and doors closed on him once and for all. Hence, liberty is granted to the petitioner to file a statutory appeal before this Court, within a period of six weeks from the date of receipt of a copy of this order.



W.P.(MD)No.16796 of 2023

WEB COPY

8. Considering the fact that the petitioner has approached this Court by way of a writ petition within a month from the date of the Impugned Award being passed on 15.06.2023, the question of limitation should not be put against the petitioner, denying him an opportunity to challenge the Award under Section 74 of the Act. Therefore, in the event of the petitioner preferring a statutory appeal within a period of four weeks, limitation should not be put against the petitioner. Therefore, if and when the petitioner files the statutory appeal under Section 74 of the Act 30 of 2013, not later than four weeks from the date of receipt of the order in this writ petition, the Registry shall number the same, if it is otherwise in order, without holding limitation against the petitioner. It is open to the petitioner to canvass all his defence in the said appeal.

9. The writ petition stands disposed of with the above liberty. No costs. Consequently, connected miscellaneous petitions are closed.

13.03.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
rgm



W.P.(MD)No.16796 of 2023

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P.B.BALAJI, J.

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