



W.P.(MD) No.20258 of 2015

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.(MD) No.20258 of 2015

and

W.M.P(MD)No.1 of 2025

P.Pitchaimuthu

... Petitioner

vs.

- 1.The District Collector,
Dindigul District, Dindigul.
- 2.The Tahsildar,
Tahsildar Office (Dindigul West),
Palani Road, Dindigul.
- 3.The Executive Engineer,
Public Works Department (Ni.AA.Thu)
Nanganjiyaru Vadinila Kottam,
Palani-624 601.
Dindigul District.
- 4.The Assistant Executive Engineer,
Public Works Department (Ni.Va.Aa)
Kudakanaru Sub Division,
Vedasandur-624 710,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to forbear the respondents from enter into the



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petitioner's land in Dindigul District, Dindigul West Taluk, Palakkanoothu Village in S.F.No.869/1 in the guise of perusing Land Acquisition process as per repealed Land Acquisition Act, 1894.

For Petitioner : Mr.Karthick Subramanian

For Respondents : Mr.B.Saravanan
Additional Government Pleader

ORDER

The petitioner has filed the present writ petition seeking issuance of a Writ of Mandamus to forbear the respondents from entering into the petitioner's lands comprised in S.F.No.869/1 under the guise of land acquisition proceedings under the repealed Land Acquisition Act, 1894.

2.Heard the learned counsel on either side.

3.The learned counsel for the petitioner would submit that the land acquisition proceedings were initiated in respect of the petitioner's lands and it appears that compensation of Rs.23,000/- was fixed for the lands that were sought to be acquired from the petitioner. However, according to the petitioner, compensation was never paid or even tendered to the petitioner at any point of



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time and possession was also not taken from the petitioner. Further, the petitioner is continuing to do agricultural work and the lands are being used for the cultivation of drumstick trees, coconut trees and neem trees, as well as palm trees, which are existing in the said lands. The petitioner has also given a representation on 24.08.2009 to the first respondent/District Collector on the grievance day. The said representation was forwarded to the fourth respondent, who issued a reply on 22.09.2009 stating that the percolation pond was constructed in various survey numbers, including S.F.No.869/1. However, it is the specific case of the petitioner that the percolation pond was not constructed in the petitioner's property. The petitioner further states that on 07.10.2015, the respondents 2 and 5 met the petitioner and offered to pay a sum of Rs.23,000/- fixed as compensation and insisted on the petitioner handing over possession. Immediately, the petitioner causes lawyer's notice on 10.10.2015, reiterating the stand of the petitioner that the possession has been with the petitioner and no compensation has even been tendered to the petitioner. The petitioner, therefore, has approached this Court seeking to forbear the respondents from entering into the petitioner's land.

4.The learned Additional Government Pleader appearing for the official respondents would submit that the possession has been taken from the petitioner and the percolation pond has already been constructed in S.F.Nos.869/1, 860/4B



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and 861/2B. He would further submit that the compensation determined and payable to the petitioner at Rs.23,000/- together with interest totalling in all Rs.31,872/- has been deposited in the bank account of the Tahsildar, Dindigul, namely, State Bank of India, A/c No.30353500292. He would further submit that the lands have already vested with the Government, free of encumbrances even as early as on 08.06.1996, in terms of the Land Acquisition Act, 1894. He would, therefore seeks for dismissal of the writ petition.

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

6.It is the specific contention of the petitioner that despite the acquisition proceedings being initiated, the petitioner continues to be in physical possession of the subject lands and has been carrying on agricultural activities in the subject lands. It is also the specific contention of the petitioner that no compensation was tendered in terms of the Land Acquisition Act to the petitioner. Going through the original records, I find that on 14.07.2008, the Tahsildar, Aathur, has addressed a communication to the Executive Engineer, Public Works Department, Palani, marking a copy to the District Revenue Officer, Dindigul, wherein it has been clearly stated that despite several letters sent right from 1996, the compensation



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amount has not been released to the landowner. The said amount along with 15% interest has been calculated as on 31.05.2008 and arrived at Rs.31,872/- and the said amount has been deposited in the bank account of the Tahsildar himself. I am unable to see any communication sent to the writ petitioner offering the said compensation amount. In fact, atleast as on 2008, even according to the official records, the petitioner was not paid the compensation amount. Even thereafter, I am unable to find a single communication sent to the writ petitioner calling upon him to receive the compensation amount which has been arrived at and subsequently deposited in the bank account of the Tahsildar. The original file contains only inter-department communications with regard to the compensation amount payable to the writ petitioner. Even in the counter affidavit filed by the second respondent, there is no whisper about the compensation amount being tendered or even being deposited in the bank account of the Tahsildar.

7.However, the learned counsel for the petitioner, on instruction, submits that the petitioner is not opposing the acquisition even as on date and would be satisfied if his claim for compensation is considered in terms of the new legislation, namely the Act, 30 of 2013. I find merit in the said request/contention of the learned counsel for the petitioner since the petitioner has not lost physical possession which, he has been able to satisfy by way of documents filed before



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this Court in the form of typed set of papers to evidence that the petitioner continues to carry on agricultural activities in the subject lands, which negates the contention of physical possession being taken over for construction of percolation pond. If the case of the respondents is that physical possession has already been taken over and the construction of the percolation pond has also been completed, then there can be no possibility for the petitioner to carry out agricultural activities, which is evidenced by Chitta and Adangal extracts in the name of the petitioner even as late as in 2024.

8.Considering the above, this Writ Petition is disposed of in the following manner:

(i) Eventhough the land acquisition proceedings initiated under the Land Acquisition Act, 1894, may have lapsed or deemed to have lapsed in view of twin conditions not being satisfied as contemplated under Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, considering that the petitioner is willing to surrender his lands subject to compensation being awarded under the Act, 30 of 2013, the first



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respondent shall determine the compensation amount payable to the petitioner under Section 26 of Act, 30 of 2013.

(ii) On such determination of the compensation and awarding solatium as contemplated under Sections 27 and 30 of Act 2013, the petitioner shall be put on notice about the said determination, by passing an award under Section 37 of the Act, 2013.

(iii) The said exercise shall be carried out within a period of eight weeks from the date of receipt of a copy of this order.

No costs. Consequently, connected miscellaneous petition is closed.

11.03.2025

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NCC: Yes/No

Index : Yes / No

Internet : Yes / No

To

1.The District Collector,
Dindigul District, Dindigul.



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P.B.BALAJI, J.

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