



W.P.(MD)No.23023 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 02.04.2025

DELIVERED ON : 15.04.2025

CORAM

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

W.P.(MD)No.23023 of 2024

and

W.M.P.(MD)Nos.19523, 19525 & 19526 of 2024

R.Thayalapandian

: Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
(D-Section),
NH-7 Kumaraswamy Nagar,
Virudhunagar,
Kooraikundu,
Tamil Nadu - 626 002.

2.The District Revenue Officer (Land Acquisition),
The Collectorate,
1st Floor,
Sattur Road,
Virudhunagar HO,
Virudhunagar - 626 001.



W.P.(MD)No.23023 of 2024

WEB COPY

3.The Special District Revenue Officer (Land Acquisition)

Tamil Nadu Road Sector Project-II,
Corporation over water tank complex,
Dindigul Road,
KPN Parcel Opposite,
Tiruchirappalli - 620 001.

4.The Tahsildar

The Tahsildar Office,
Aruppukottai - 626 101.

5.The Special Tahsildar,

Land Acquisition and Management Unit - 3,
Virudhunagar - 626 101.

6.The Divisional Engineer,

The Tamil Nadu Highways Department (Projects),
No.1, First Street,
Perumalpuram Post,
Tirunelveli - 627 007.

7.The Assistant Divisional Engineer,

Highways Department Projects,
Kovilpatti,
Office of the Divisional Engineer,
The Tamil Nadu Highways Department (Projects),
No.1, First Street,
Perumalpuram Post,
Tirunelveli - 627 007.

: Respondents



W.P.(MD)No.23023 of 2024

WEB COPY

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the 5th respondent relating to the impugned proceedings in Na.Ka.(NiAe.Me.A3) No. A1/12/2023 dated 19.09.2023 and to quash the said Impugned Proceedings in respect of the said property of the petitioner in S.No. 234/2, measuring about 2,716 sq.m., classified as Residential Special Type-1, as per Patta No. 1013, situated in Gopalapuram Village, Aruppukottai Taluk, Virudhunagar District, and to consequently direct the 1st respondent to pay compensation for the acquisition of the said property as per the Tamil Nadu Highways Act, 2001 (TN Act 34 of 2002) at Rs.4,828/- per sq.m. for the land along with value for the Neem trees.

For Petitioner : Mr. T.Gowtham
Senior Counsel
for M/s.KNS Law Chambers
For Respondents 1 to 7 : Mr.M.Ajmal Khan,
Additional Advocate General
Assisted by Mr.B.Saravanan
Additional Government Pleader

ORDER

The writ petitioner seeks to quash the proceedings of the fifth respondent dated 19.09.2023 and to consequently direct the first respondent to pay compensation to the petitioner in terms of the



W.P.(MD)No.23023 of 2024

provisions of the Tamil Nadu Highways Act, 2001 at Rs.4828/- per sq.mt for the land, along with value for the neem trees.

WEB COPY

2.I have heard Mr.T.Gowtham, learned Senior Counsel, for M/s.KNS Law Chambers, appearing for the petitioner and Mr.M.Ajmal Khan, learned Additional Advocate General, assisted by Mr.B.Saravanan, learned Additional Government Pleader appearing for the respondents.

3.The case of the petitioner is that the lands belonging to the petitioner were notified under Section 15(1) of the Tamil Nadu Highways Act, 2001 [hereinafter referred to as 'the Act', for brevity], without following the mandate of Section 15(2). It is the further case of the petitioner that Section 16, contemplating payment of compensation has also not been complied with and consequently, the petitioner is entitled to payment of compensation together with interest.

4.Learned Senior Counsel would further submit that though the petitioner is entitled to challenge the entire acquisition proceedings for want of Section 15(2) notification and non-compliance of Section 16(1), taking into account that the property is certainly required for the purpose for which the acquisition proceedings had been initiated, the petitioner was magnanimous and



W.P.(MD)No.23023 of 2024

offered to part with his valuable property. However, the respondents cannot take advantage of the same and deprive the petitioner of lawful compensation, that he is entitled to under the provisions of the Act. Learned Senior Counsel would also take me through the recommendations of the Tahsildar to pay compensation at Rs.4828/- per sq.mt and therefore, contend that the compensation offered at Rs.182/- per sq. mt., was wholly unjust and unfair. Learned Senior Counsel, would therefore, pray for the impugned proceedings dated 29.08.2024, to be set aside and direction been issued to pay compensation to the petitioner at the rate of Rs.4828/- per sq.mt, which has been recommended even by the Tahsildar.

5.Learned Senior Counsel would also place reliance on the decision of the Hon'ble Supreme Court in ***Bernard Francis Joseph Vaz and others Vs. Government of Karnataka and others*** reported in ***2025 SCC Online SC 20***, to contend that the authorities will have to pay compensation on the date of taking possession and not on the date of the notification.

6.Per contra, learned Additional Advocate General, Mr.Ajmal Khan, would submit that it is not correct on the part of the petitioner to state that Section 15(2) of the Act was not complied with. He would submit that the petitioner participated in the enquiry proceedings at the stage of Section 15 and also again at the stage of



W.P.(MD)No.23023 of 2024

award enquiry contemplated under Section 19. He would further submit that the petitioner has not even challenged the Section 15(1) notification, but has only challenged the communication of the sixth respondent, whereunder, the petitioner was only called upon to remove the neem trees to enable the Highways Department to proceed with their work.

7.Learned Additional Advocate General would further refer to provisions of Section 16 of the Act and contend that the lands have already vested absolutely with the State and it is not open to the petitioner to contend that he is still in possession and at best, his possession even assuming has been admitted by the revenue authorities, would only amount to one as trespass and not as lawful occupation by the writ petitioner. Learned Additional Advocate General would therefore, submit that the Writ Petition is liable to be dismissed.

8.I have carefully considered the submissions advanced by the learned Counsel on either side.

9.Admittedly, the petitioner has not challenged the Section 15(1) notification. If aggrieved by non-compliance of provisions of Section 15(2) of the Act, the petitioner ought to have challenged the notification issued under Section 15(1) of the Act. However, the same



W.P.(MD)No.23023 of 2024

WEB COPY

has not been done and therefore, it does not lie in the mouth of the writ petitioner to now contend that there is a failure of following the mandate of Section 15(2) of the Act. Once Section 15(1) notice is published in the Tamil Nadu Government Gazettee, Section 16 kicks in and the lands vest absolutely with the Government and under Section 16(2), the Government is entitled to call upon any person in possession to surrender or deliver possession to the Collector or any person duly authorised by the Government, within 30 days from the date of service of the order. Section 16(3) enables the Collector to take forcible possession as well. This stage has not arisen, since even the correspondence that has been challenged by the writ petitioner herein only called upon the petitioner to remove the neem trees in the lands and thus the respondents have admitted the petitioner's physical possession. The respondents are at liberty to invoke Section 16(2) and thereafter, if required Section 16(3) of the Act. However, the proviso to Section 16(1) provides that the owner or persons interested are entitled to payment of amount which is required to be determined in accordance with provisions of Section 19 of the Act.

10.Section 19 deals with the manner of determination of the amount payable for acquisition. Section 19(6) requires the Collector to be guided by the provisions contained in Sections 23 and 24 of the Land Acquisition Act, 1894 and the reference to the date of publication of the notification under sub-section (1) of Section 4 of



W.P.(MD)No.23023 of 2024

the Land Acquisition Act and date of publication of the declaration under Section 6 of the Land Acquisition Act are to be construed as reference to the date of publication of notice under Section 15(1) and Section 15(2) of the Tamil Nadu Highways Act, 2001. However, now that the Land Acquisition Act has been repealed and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 [Act 30 of 2013], has come into force by implication and doctrine of reference, the provisions of Act 30 of 2013, shall apply instead of the provisions of the Land Acquisition Act.

11. Under Act 30 of 2013, Section 38 enables the Collector to take possession of the land after ensuring full payment of compensation as well as rehabilitation and resettlement entitlements are paid or tendered to the entitled persons. However, a similar provision is not available under the Tamil Nadu Highways Act. However, it is only Schedule I of Act 30 of 2013, which would apply to the Tamil Nadu Highways Act, 2001, insofar as determination of compensation for land owners, which sets out various components like market value of the land, multiplication factors, solatium etc., Therefore, the petitioner is certainly entitled to payment of compensation in terms of Section 19 of the Tamil Nadu Highways Act r/w. provisions of Act 30 of 2013, more specifically, Section 26 of Act 30 of 2013 r/w. Schedule I. Insofar as the decision on which the



W.P.(MD)No.23023 of 2024

learned Senior Counsel has placed reliance upon in **Bernard Francis Joseph Vaz** case, the Hon'ble Supreme Court, taking note of the fact that despite taking possession, the land owners in that case were deprived of their legitimate dues for more than two decades, held that the determination of the award and disbursal of compensation should be made with promptitude and the value as on the date of the possession being taken would have to be taken into account and directed compensation to be paid on the basis of prevailing market value in the year 2019, when the compensation was determined in the said case.

12.However, I am mindful of the fact that the Hon'ble Supreme Court, exercising such power under Article 142 of the Constitution of India directed such determination of compensation to be awarded to the land owners. The same cannot be applied to the facts of the present case, where there is not even deprivation of possession of the petitioner. Even according to the petitioner, possession is yet to be taken from him and therefore, I do not find the said decision coming to the aid of the writ petitioner in the present case. Therefore, the petitioner is not entitled to seek compensation as on date or for that matter, on the date of possession being taken over from the writ petitioner, but would only be entitled to the compensation payable as per the prevailing market value on the date of notification under Section 15(1) and not later.



W.P.(MD)No.23023 of 2024

WEB COPY

13.However, in the present case, admittedly, the compensation amount has not been finalised, though it is contended by the respondents that the District Level Committee headed by the District Collector, Virudhunagar, was requested to determine the value of the property and that the said committee has arrived at Rs.268/- per sq.ft. It is admitted that the petitioner has not yet been given an opportunity to challenge the said value fixed by the District Level Committee. Even in the counter affidavit filed by the third respondent, it is stated that the authorities are yet to obtain final orders to revise the valuation, in accordance with the proposals sent by the authorities and that only after getting necessary orders from the Government, an award of compensation would be passed.

14.Considering the facts and circumstances of the present case and the challenge being only to a notice calling upon the petitioner to remove the neem trees in the land, I deem it fit to dispose of the Writ Petition, directing the third respondent to conduct an enquiry, after hearing the petitioner, by providing a fair opportunity, to enable the petitioner to substantiate his claim for fair compensation and also take into account the recommendations of the Tahsildar, regarding the prevailing market value on the relevant date. The third respondent shall determine the compensation



W.P.(MD)No.23023 of 2024

amount payable to the writ petitioner, in accordance with law, keeping in mind the provisions of Section 26 of the Act 30 of 2013, as well as the Schedule I of the Act. The said exercise shall be carried out within a period of twelve [12] weeks from the date of receipt of a copy of this order. It is made clear that the respondents are at liberty to proceed with taking appropriate action under Section 16(2) as well as 16(3) of the Act. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

15.04.2025

Index :Yes / No
Internet : Yes / No
NCC : Yes/No
MR



W.P.(MD)No.23023 of 2024

WEB COPY

To

- 1.The District Collector,
Virudhunagar District,
(D-Section),
NH-7 Kumaraswamy Nagar,
Virudhunagar,
Kooraikundu,
Tamil Nadu - 626 002.
- 2.The District Revenue Officer (Land Acquisition),
The Collectorate,
1st Floor,
Sattur Road,
Virudhunagar HO,
Virudhunagar - 626 001.
- 3.The Special District Revenue Officer (Land Acquisition)
Tamil Nadu Road Sector Project-II,
Corporation over water tank complex,
Dindigul Road,
KPN Parcel Opposite,
Tiruchirappalli - 620 001.
- 4.The Tahsildar
The Tahsildar Office,
Aruppukottai - 626 101.



W.P.(MD)No.23023 of 2024

5.The Special Tahsildar,
Land Acquisition and Management Unit - 3,
Virudhunagar - 626 101.

6.The Divisional Engineer,
The Tamil Nadu Highways Department (Projects),
No.1, First Street,
Perumalpuram Post,
Tirunelveli - 627 007.

7.The Assistant Divisional Engineer,
Highways Department Projects,
Kovilpatti,
Office of the Divisional Engineer,
The Tamil Nadu Highways Department (Projects),
No.1, First Street,
Perumalpuram Post,
Tirunelveli - 627 007.



WEB COPY



W.P.(MD)No.23023 of 2024

P.B.BALAJI., J.

MR

PRE-DELIVERY ORDER MADE IN
W.P.(MD)No.23023 of 2024

15.04.2025