



W.P.(MD)No.30308 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.02.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.30308 of 2024
and
W.M.P(MD)No.25493 of 2024

Y.Gnana Durai

.... Petitioner

/Vs./

1.The Commissioner of Land Acquisition,
Chepauk,
Chennai.

2.The District Collector,
Tirunelveli District,
Tirunelveli.

3.The Special Tahsildar (Land Acquisition)
River Link Project Unit 3,
Palayamkottai,
Tirunelveli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the third respondent in Na.Ka.A/01/2023 dated 18.10.2024 and quash the same and directing the



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third respondent to refer the matter to the authority as per Section 64 of the "Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" within a time frame fixed by this Court.

For Petitioner : Mrs.Porkodi
for M/s.Polax Legal Solutions

For Respondents : Mr.S.Kameswaran
Government Advocate

ORDER

The petitioner has filed the instant writ petition challenging the impugned order of the third respondent in Na.Ka.A/01/2023, dated 18.10.2024 and to consequently direct the third respondent to refer the matter to the authority as per Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2. I have heard the learned counsel appearing for the petitioner and Mr.S.Kameswaran, learned Government Advocate appearing for the respondents.



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3. It is the case of the petitioner that the lands in Survey Numbers 734/2B 1A1 and 734/3, Tharuvai Village, Palayamkottai Taluk belongs to the petitioner's father and patta was also issued in his name and subsequently, in the joint names of the petitioner and other legal heirs. It is an admitted case of the parties that the Government proposed to acquire the lands belonging to the petitioner, comprised in Survey Nos.734/3 and 734/2B 1A1, for the purposes of interlinking Thamirabarani-Karumeniaaru and Nambiaaru rivers for the benefit of dry areas in Tirunelveli and Thoothukudi District.

4. According to the petitioner, the respondents took possession of the lands in 2010, but however, did not come forward to pay compensation to the petitioner. The petitioner filed W.P(MD)No. 20333 of 2024 seeking enquiry to be conducted in respect of the compensation to be paid to the writ petitioner. The said writ petition came to be disposed of on 27.08.2024, directing the petitioner to appear before the third respondent and thereupon, the third respondent was called upon to conduct an enquiry and take a final decision.



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5. The case of the petitioner is that the third respondent neither enquired the petitioner nor looked into the various documents that had been relied on by the petitioner at the time of enquiry and without any basis, passed the impugned order as if the subject lands were not belonging to the petitioner and consequently compensation could not be paid. The further case of the petitioner is that a person with an identical name and also same father's name has appeared before the authority claiming title to Plot Numbers 4 and 5 comprised in Survey Nos.733/1 and 734/2 under a registered sale deed, dated 14.10.2024 in respect of the lands measuring 237 sq.ft alone and claiming right under the sale deeds. The said person has been paid compensation in respect of survey number 734/3 which is admitted by the respondents in their counter affidavit as well.

6. It is seen from the counter affidavit and also the proceedings, dated 24.10.2024 on the file of the Special Tahsildar, Land Acquisition in Na.Ka.A/01/2023 that the third person having an identical name as that of the writ petitioner and also the same father's name has been paid compensation only in respect of 219 square meters in survey



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number 734/3 to the tune of Rs.8,66,998/-. The grievance of the petitioner is that the third person has no iota of right, title or over the interest and even the notice dated 20.10.2023 calling for an enquiry has also been served on the writ petitioner. It is the further case of the writ petitioner that despite producing the death certificate of the petitioner's father and patta standing in the name of the petitioner, the official respondents paid the compensation in respect of one survey number in 734/2 in the name of J.S.Gnana Durai, who has got nothing to do with the petitioner's property.

7. It is the further case of the respondents that the said J.S.Gnana Durai produced the documents in his favour and only based on the same and after conducting an enquiry in line with the order of this Court in W.P.(MD)No.20333 of 2024, dated 27.08.2024, the authorities have taken a decision to pay compensation in respect of survey number 734/2 to J.S.Gnana Durai, finding that the petitioner did not produce any documents in support of his contentions.



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8. As rightly pointed out by the learned counsel for the petitioner, the entire discussion in the impugned order revolves around survey number 734/3 and there is absolutely no reference to claim of title to 734/2B 1A1 Tharuvai Village. It is also an admitted case of the respondents that the compensation has been paid only in respect of Survey Nos.734/3 and not in respect of 734/2B 1A1.

9. I have considered the submissions advanced on either side.

10. Referring to Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the said provision enables any person interested who has not accepted the award, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Authority, as the case may be, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, the rights of Rehabilitation and Resettlement under



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Chapters V and VI or the apportionment of the compensation among the persons interested.

11. On such application made by any party, the Collector is required to make a reference to the appropriate authority within a period of 30 days. The section does not contemplate any enquiry to be conducted by the Collector by himself and he has to merely refer the matter to the appropriate authority as soon as the Collector receives a written application for determination of the person to whom compensation is payable. The first proviso to Section 34 also mandates that if the Collector fails to make any reference within the 30 days, then the applicant may apply to the authority, as the case may be, requesting to direct the Collector to make the reference to it within a period of 30 days. Here admittedly, the said proviso has not been followed by the petitioner. However, in view of the adverse order passed by the third respondent, the petitioner has directly approached this Court challenging the order, dated 18.10.2024. I have already found that the third respondent had no authority to conduct an enquiry when there is an objection raised in respect of payment of compensation to any particular



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individual, the only requirement under the Act was to make reference to the competent authority. However, in the instant case, I find that the Tahsildar has exceeded his jurisdiction and conducted a roving enquiry and dis-allowed the claim of the petitioner for compensation.

12. No doubt, the learned Government Advocate appearing for the official respondents would invite my attention to the order of this Court, dated 27.08.2024, where this Court had directed the petitioner to appear before the third respondent along with relevant documents, who was called upon to conduct an enquiry after providing an opportunity to both sides and take a decision within a period of four weeks. The said order has been misunderstood by the official respondents. If at all the official respondents had found that there was a rival claim in respect of compensation to be paid, then it was incumbent on the authorities to have referred the matter to the competent Court instead of deciding the issue by themselves. Therefore, there is a clear violation of the letter and spirit of Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013,



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especially, when contentious issues can be decided only by a competent Civil Court and not in a summary manner by revenue authorities or over by the Collector.

13. In such view of the matter, I am constrained to interfere with the impugned order passed by the third respondent and the matter is requires be decided after elaborate trial and also opportunity being given to the petitioner as well as the rival claimant, J.S.Gnana Durai, before the Principal District Judge, Tirunelveli. The Principal District Judge, Tirunelveli, to whom the copy of this order marked, shall take up the matter and issue notice to the petitioner as well as the rival claimant and after affording fair opportunities to both the parties, shall consider and shall decide the entitlement of the petitioner for any compensation. Considering the fact that compensation in respect of one survey number, namely 734/3 has already been paid to the rival claimants, J.S.Gnana Durai, I do not deem it fit to disturb the same. At this juncture, it is open to the petitioner to seek the said amount paid to the rival claimant, J.S.Gnana Durai in accordance with law in the event of the petitioner



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succeeding before the competent Civil Court. The Principal District Judge, Tirunelveli is directed to issue notice to both the petitioner and the rival claimants and shall endeavour to complete the enquiry and pass final orders within a period of six months from the date of receipt of a copy of this order.

14. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
NCC : Yes / No
am

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To

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Chepauk,
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Copy To

The Principal District Court,
Tirunelveli.



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P.B. BALAJI, J.

am

Order made in
W.P.(MD)No.30308 of 2024

Dated:
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