

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 27.02.2015

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P (NPD)No.115 of 2015
and M.P.No.1 of 2015

C.Ravindran

... Petitioner / Respondent

Vs

1.Spl. Tahsildar (L.A.)
I.T. Express way Scheme
Tambaram Taluk Office Building
Tambaram,
Chennai – 600 045.

... 1st Respondent/Ref. Officer

2.G.Koteswaran

... 2nd Respondent / Proposed claimant

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order in I.A.No.22 of 2013 in LAOP No.118 of 2012 dated 17.11.2014 on the file of Subordinate Court, Tambaram, Kanchipuram District.

For Petitioner : M/s.G.Poonkundran

For Respondents : Ms.M.Jayashree
Govt. Advocate (CS)

M/s.S.Umapathy for R2

ORDER

The revision is directed against the order of the Sub Court, Tambaram in I.A.No.22 of 2013 in LAOP No.118 of 2012.

2. The second respondent filed I.A.No.22 of 2013 under Order 1 Rule 10 C.P.C. to implead him as the second claimant in LAOP No.119 of 2012.

3. The case of the second respondent is that the Special Tahsildar (L.A.), I.T. Express way Scheme, Tambaram Taluk Office Building, Tambaram had acquired land to an extent of 90 sq.m. in Survey No.42/2H. Out of the total extent of 7 cents, the second respondent is entitled for an extent of 2 cents and the petitioner herein is entitled for 5 cents.

4. The application was opposed by the petitioner in his counter. However, the trial Court, allowed the application. Aggrieved by the order, the present revision is filed.

5. Mr.G.Poonkundran, learned counsel for the petitioner submitted that the entire land acquired by the first respondent belongs to the petitioner and the second respondent has no right in the property. The land was acquired in the year 2005 and the award was passed on 17.08.2009. If the second

respondent has any right in the property, he has to make an objection within six weeks from the date of award or within six weeks from the date of notice under Section 12 of the Act, but it was not done. The Special Tahsildar had conducted enquiry on the objection filed by the second respondent and found that his claim is out of the land acquired by the first respondent. Hence, the proposed part is not a necessary party.

6. The learned counsel further submitted that the petitioner is a senior citizen and he requires money for his medical expenses and if the 2nd respondent is impleaded, he will deliberately delay the proceedings.

7. Per contra, Mr.S.Umapathy, learned counsel for the second respondent submitted that the second respondent has been repeatedly making representations to the authorities contending that two cents of his land had been acquired by the Government, but it was not considered by the authorities. Eventually, the second respondent filed a writ petition before this Court in W.P.No.1706 of 2012 and in that writ petition, this court directed the first respondent to deposit the award amount before the concerned court. It is further contended that even the petitioner claims right over the property on the basis of an unregistered sale deed dated 29.09.1978. The second respondent is having sale deed in his favour and that will be produced at the time of the trial.

8. Since the second respondent is claiming right in the land acquired by the Government, the Sub Court has rightly allowed the application filed by the second respondent. I do not find any illegality or irregularity in the order of the trial court.

9. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

10. At this juncture, the learned counsel for the petitioner submitted that the first respondent has deposited Rs.15,21,434/- to the credit of LAOP. The petitioner is a senior citizen and he is taking dialysis daily and he is in urgent need of money. The learned counsel seeks permission of this court to withdraw the amount.

11. It is seen that even in the impleading petition, the second respondent has claimed right over 2 cents out of the total extent of 7 cents acquired by the Government. It is also seen that except the second respondent, there is no claim by any other parties for the acquired land. In view of the specific claim of the second respondent, the permission sought for by the petitioner to withdraw the amount deposited before the court would not cause any prejudice to him.

12. Considering the submissions of the learned counsel for the petitioner and the claim made by the second respondent, I hereby direct Sub Court, Tambaram, to disperse Rs.10,00,000/- (Ten lakhs only) to the petitioner and deposit the remaining amount in a Nationalised Bank in recurring deposit, till the disposal of the original petition.

27.02.2015

Index:Yes/No
rgr

To

The Subordinate Judge,
Tambaram.

K.KALYANASUNDARAM,J

rgr

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