

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON 19/12/2014

DATED: 23/09/2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.33427 of 2014 &  
M.P.Nos.1 to 3 of 2014

- 1.Sri Jaya Medicals and Developmental Store,  
Sri Jaya Sweets and Bakery,  
Rep. by its sole Proprietor,  
P.Kandasamy.
  - 2.Seven Eight Six Bedding Mart,  
Rep. by its Proprietor,  
D.Siraj
  - 3.Jothi Stores,  
Rep. by its Proprietor,  
A.Ramachandiran
- ... Petitioners

All are having shops at  
No.1 Station Road,  
Korattur, Chennai - 600 080.

Vs.

- 1.The District Collector,  
Tiruvallur District,  
Tiruvallur.
- 2.The Assistant Divisional Engineer,  
(National Highways),  
Chennai Metropolitan Development Authority,  
Sub Division No.VI,  
Chennai - 600 015.

- 3.Smt.Subbulakshmi
- ... Respondents

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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for a Writ of Certiorari, to call for the records relevant to the order in Letter No.416/2014/ENi.Va, dated 24.11.2014, passed by the second respondent and quash the same as illegal, improper, unreasonable.

For Petitioner : Mr.M.V.Muralidaran  
For Respondents : Mr.M.S.Ramesh  
Addl. Govt. Pleader for R1  
- - -

O R D E R

The petitioners submit that they three along with five others are the tenants under the third respondent in Door No.1, Block No.44, Ward No.E, Survey No.116/2, Station Road, Korattur, Chennai-80, Tiruvallur District. The first petitioner is running the shop in the name and style of Sri Jaya Medicals and Departmental Store and Sri Jaya Sweets and Bakery; the second petitioner D.Siraj is running a shop in the name and style of Seven Eight Six Bedding Mart and the third petitioner A.Ramachandiran is running a shop in the name and style of Jothi Stores in the above said premises. The petitioners further submit that they were inducted as a tenant in the rental premises situated at Door No.1, Block No.44, Ward No.E, Survey No.116/2, Station Road, Korattur, Chennai-80, Tiruvallur District and continuing as a tenant for several years. The owner of the said premises, Smt.Subbulakshmi, is the third respondent herein. They are regularly paying rent towards their rental premises without any defaults as on date. The petitioners further submit that they have all obtained proper license from the authority concerned and after obtaining license, only they are running the said shops in the rental premises in a peaceful manner without causing disturbance to anybody. Further, they are regularly paying other basic amenity charges which was levied by their landowner without any default.

2. The petitioners further submit that on 28.11.2014, the second respondent subordinate officials affixed the impugned order dated 24.11.2014 on the wall of one of their shops. It was a shock and surprise to them and on the fair reading of the impugned order, they came to understand that the property in Survey No.116/2, Block No.44, Ward No.E, Korattur, Chennai, Tiruvallur District to an extent of 49.5 meter was acquired under the Land Acquisition Proceedings by the National Highways Department. In this regard, award was passed in Award No.7/2011, dated 13.01.2011. The petitioner further submits that the said Land Acquisition Proceedings was not brought to their knowledge by their landlord. Further, on reading of the said impugned order, they came to understand that the said land is acquired for formation of underground bridge and it was directed by the second respondent that they have to vacate and handover the

premises to the second respondent on or before 22.12.2014. Immediately after perusal of the said notice which was affixed on the wall of one of their shops, they contacted their landlord to ascertain whether any legal proceedings was initiated by her challenging the land acquisition proceedings, but they were not able to get any proper reply from her. The petitioners further submit that they were inducted as tenants in the said premises long back before and continuing their tenancy for more than a period of 15 years and above without any interruptions. It is pertinent to note here that they have no legal right and are not standing in the way of Land Acquisition Proceedings carried out by the second respondent but without following any procedures contemplated under the Act, no notice was issued to the occupant of the premises and the second respondent affixed the notice for eviction on one of their shop and directed them to vacate and handover possession on or before 22.12.2014.

3. The petitioners further submit that they are running the said shops for more than a period of 15 years and above and they have possess a good reputation and regular business is being conducted in the said place. All of a sudden, vacating the premises without even issuance of any notice or providing an opportunity of hearing, the second respondent has acted in an arbitrary manner and violated the rules and regulations as specified in the Act. Hence, there are gross procedural violation against principles of natural justice. In the said place, there are five other shops which are being run by the other tenants but they were not disturbed by the second respondent, but on the other hand, the petitioners alone had been disturbed and the second respondent is attempting to demolish their shops. The petitioners further submit that in this regard when they approached the second respondent authority, they were given an evasive reply. If they succeed in throwing them out of the said premises, then they will be on the street and lose their entire business and they will incur huge loss. The second respondent ought to have provided them an opportunity of hearing prior to passing of impugned notice, but without following any of the procedures contemplated under the Act, the said notice was affixed on the wall of one of their shops and the landlord of the premises had also not taken any interest to challenge the said notice. Since the third respondent, who is their landlord, was indirectly attempting to evict them from the shops for the reasons that if they will be thrown out from the shop definitely, the third respondent will let out the premises to other third parties for higher rate of rental amount. They are all running the above small shops and from the said income only they are all running their respective families. Hence, the petitioners entreat the Court to allow the above writ petition.

4. The highly competent counsel Mr.M.V.Muralidaran appearing for the petitioners submits that all the petitioners are tenants under the third respondent. The first petitioner is running a medical shop Department store and bakery. The second petitioner is also

tenant and running a bedding mart. The third petitioner is also a tenant and also running a shop in the name and style of Jothi Stores. All the tenants are regularly remitting monthly rent to the landlady, Mrs.Subbulakshmi. The tenants are doing their business after obtaining necessary license from the statutory authorities. Under the circumstances, the second respondent has issued impugned order stating that the petitioners occupation of the property to an extent of 49.5 meters was acquired under the Land Acquisition Proceedings by the National Highways and award also has been passed. Further, the second respondent directed the tenants to vacate the premises and hand over the vacant possession for formation of underground bridge. The petitioners are lawful tenants and occupying the said premises for more than 15 years. Therefore, action of the respondents in passing the final order without giving statutory notice and without conducting enquiry and directing the petitioners to vacate the premises is prejudicial to the interest of the petitioners / lawful tenants. Hence, the highly competent counsel entreats the Court to allow the above writ petition.

5. The highly competent Additional Government Pleader Mr.M.S.Ramesh appearing for the first respondent submits that the Land Acquisition Officer had initiated Land Acquisition Proceedings and acquired the land for formation of underground bridge. The award has also been passed in the year 2011. As per the revenue records and connected records, the third respondent alone is the owner of the property. Further, all the petitioners are tenants under the third respondent herein for more than 15 years. The tenancy has not been registered under the Tamil Nadu Building Lease and Rent Control Act. The petitioners are only tenants and are always tenants and hence, they have no civil rights over the said property. Therefore, issuance of notice to the petitions is not required under the Land Acquisition Act. The third respondent had participated in the Land Acquisition Proceedings and subsequently award also has been passed in the name of the landlady. Further, the impugned order has been passed in the name of the third respondent and therefore, all the petitioners have no locus standi to challenge the impugned order. The relationship between the third respondent and petitioners are as landlady and tenants, but no relationship or nexus exists between the Land Acquisition Officer and the petitioners.

6. On considering the facts and circumstances of the case and arguments advanced by the highly competent counsels on either side and on perusing the typed-set of papers, this Court is of the view that the second respondent had acquired land from the third respondent for the purpose of formation of underground bridge, which is a public purpose. The Land Acquisition Proceedings had been initiated against the landowner and the land was acquired and award also was passed on 13.01.2011. As such, there is no impediment for acquiring the said property. Besides, the third respondent / landlady had not challenged the said proceedings. As such, the impugned order of the second respondent dated 24.11.2014 is fit to be operated upon

further. Hence, the above writ petition is dismissed. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar(CSIII)  
dt:5/10/2015

True Copy

Sub-Assistant Registrar

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To

1.The District Collector,  
Tiruvallur District,  
Tiruvallur.

2.The Assistant Divisional Engineer,  
(National Highways),  
Chennai Metropolitan Development Authority,  
Sub Division No.VI,  
Chennai - 600 015.

+1 cc to Mr.M.V.Muralidaran, Advocate sr.52086

+1 cc to the Government Pleader sr.52195

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