

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.2.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

W.P.Nos. 3984 and 14772 of 2014
and M.P.No.1 of 2014

W.P. No.3984 of 2014

K. Prabhu

... Petitioner

vs

1. The Special Tahsildar (LA)
SIPCOT WING - III,
Sriperumbudur Expansion Scheme - II,
Sriperumbudur
2. The Special Revenue Divisional Office (PO)
Oragadam (MA),
Sriperumbudur Expansion Scheme - II
Sriperumbudur
3. M/s Sundaram Finance Limited,
21, Pattullos Road,
Chennai-2 rep by its Senior Manager (Legal)
J. Thilak
(impleaded as 3rd respondent as per order of
this Court dated 9.6.2014 in MP No.2 of 2014
in MP No.2 of 2014)
4. Selvam
5. V. Venkatesh
6. T.S. Rangarajan

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7. M. Jayamani Manickam
8. M. Rajalakshmi
9. M. Kousalya
10. Priyanand
(R.4 to R.10 impleaded as per Order
dated 25.2.2015 in MP Nos.1 & 2 of
2015)

... Respondents

W.P.No.14772 of 2014

Selvam

... Petitioner

vs

1. The Special Thasildar (Land Acquisiton),
SIPCOT Unit - III,
Sriperumbudur Development Scheme - II,
Sriperumbudur
2. The District Collector,
Kancheepuram District,
Kancheepuram

... Respondents

W.P.No.3984 of 2014

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Mandamus forbearing the respondents from disbursing the compensation amount payable for the land acquisition made pursuant to Na.Ka.No.16/2010/A-B-4 dated 27.8.2013 issued by the first respondent pertaining to any portion of the vacant Punja lands measuring an extent of 4.80 cents comprised in Survey No.159/1A1, covered under Patta No.1521 and 4 cents comprised in Survey No.159/2A1A covered under Patta 1521, situate at Vadakal "B" Block Village, Sriperumbudur Taluk, Kancheepuram District, belonging to the petitioner, except the petitioner and contrary to the provisions of Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 and the Land Acquisition Act and direct them to

provide the petitioner appropriate opportunity for participating in the land acquisition proceedings pertaining the said lands.

W.P.No.14772 of 2014

Writ Petition filed by Article 226 of the Constitution of India praying this Court to issue a Writ of Mandamus, directing the respondents to pay compensation to the petitioner with 15% interest for his acquired land viz., land bearing Plot No.536 in Survey No.159/2, situated at VGP Vinod Town - II No.174, Vadakkal Village, Chengalpattu District acquired for the purpose of SIPCOT Unit - 3, Sriperumbudur Development Scheme - II.

For petitioner in WP No.3984/2014 : Mr.V.Guberan

For petitioner in W.P.No.14772/2014 : Mr.P.R. Thiruneelakandan

For R.1 & R.2 in W.P.No.3984/2014 : Mr.S. Pattabiraman
and W.P.No.14772 of 2014 : Govt. Advocate

For R.3 in W.P.No.3984 of 2014 : Mr.K. Krishnaswamy

COMMON ORDER

Since the issue involved in both the writ petitions are in respect of the same acquisition proceedings, they are disposed of by this Common Order.

2. W.P.No.3984 of 2014 has been filed by the petitioner to issue a Writ of Mandamus forbearing the respondents from disbursing the compensation amount payable for the land acquisition made pursuant to Na.Ka.No.16/2010/A-B-4 dated 27.8.2013 issued by the first respondent pertaining to any portion of the vacant Punja lands measuring an extent of 4.80 cents comprised in Survey No.159/1A1, covered under Patta No.1521 and 4 cents comprised in Survey No.159/2A1A covered under Patta 1521, situate at Vadakkal "B" Block Village, Sriperumbudur Taluk, Kancheepuram District, belonging to the petitioner, except the petitioner and contrary to the provisions of Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 and the Land Acquisition Act and direct them to provide the petitioner appropriate opportunity for participating in the land acquisition proceedings pertaining the said lands.

3. W.P.No.14772 of 2014 has been filed by the petitioner to issue a Writ of Mandamus, directing the respondents to pay compensation to the petitioner with 15% interest for his acquired land viz., land bearing Plot No.536 in Survey No.159/2, situated at VGP Vinod Town - II No.174, Vadakkal Village, Chengalpattu District acquired for the purpose of SIPCOT Unit - 3, Sriperumbudur Development Scheme - II.

4. For the sake of convenience, the writ petitioner in W.P.No.3984 of 2014 is referred as the "petitioner" and the writ petitioner in W.P.No.14772 of 2014, who is the fourth respondent in W.P.No.3984 of 2014 is referred as the "respondent" in this Common Order.

5. It is the case of the petitioner that the petitioner purchased the property, measuring to an extent of 4.80 cents from one M. Sivakumar, under the registered Sale deed dated 7.10.2009. The said Sivakumar purchased the property from one Manivel, the Power Agent of one Kuppammal and her daughter Adhilakshmi, on 8.4.2009.

6. According to the respondent, the predecessor-in-title has purchased the property from the legal representatives of the deceased Kuppammal. According to the petitioner, the said Kuppammal had died even prior to 31.3.1994. According to the respondent, after the death of Kuppammal, her legal heirs had executed a registered Power of Attorney on 31.3.1994 in favour of V.G. Panneerdas, who, in turn, had sold a portion of the property to the respondents 4 to 10, under separate sale deeds. According to the respondent, on the date of execution of sale deed by Manivel in favour of Sivakumar, the original owner viz., Kuppammal was not alive. Therefore, the sale deed executed by the Power Agent of Kuppammal and her daughter Adhilakshmi are not legally valid.

7. However, it is contended that since the sale deed executed in favour of Sivakumar is not legally valid, the consequential sale deed, executed by Sivakumar in favour of the petitioner, is also not legally valid.

8. The third respondent viz., Sundaram Finance Company had advanced money, based on an equitable mortgage, by depositing of title deeds, to the petitioner on 22.1.2013. However, the petitioner contended that the purchase made by him under the sale deed dated 7.10.2009 is valid and that he had purchased the property from his vendor, who has got valid title over the property.

9. It is not in dispute that the entire extent of 4.80 cents was acquired by the respondents 1 and 2, however, the Award has not yet been passed in the proceedings.

10. On perusal of the materials available on record, it could be seen that there is a dispute with regard to the title of the parties. The learned counsel on either side also admitted that the rival parties are disputing the title of the other parties.

11. Under Sec.226 of the Constitution of India, this Court cannot decide the title of the parties in these writ petitions. The title can be decided only by a competent Civil Court, which has jurisdiction over the matter. Under Sec.9(2) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997, when the amount has been determined under Section 7 of the Act, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute for the decision of the Court.

12. Under Section 10(3) of the Act, if the persons entitled to amount according to the decision of the Collector do not consent to receive it, or if there be no person competent to alienate the land or if thereby any disputes as to the title to receive the amount, the Government shall deposit the amount so determined in the Court. Thereafter, the parties can prove their title before the Civil Court and get the compensation.

13. The learned counsel on either side fairly agreed that under Secs.9(2) and 10(3) of the Act, the Collector may refer the dispute for the decision of the Civil Court, after fixing the compensation for the land and the Government may be directed to deposit the amount before a Civil Court and the Civil Court may adjudicate upon the dispute of the land, in question.

14. Learned counsel for the third respondent submitted that the third respondent may be given notice and allowed to participate in the proceedings, since they have advanced money to the petitioner under the above said mortgage. Further, the learned counsel for the third respondent submitted that if they are not allowed to participate in the proceedings, their valuable right will be lost.

15. Having regard to the submissions made by the learned counsel on either side, by consent of all the counsel, the following order is passed.

(i) The respondents 1 and 2 are directed to give notice to the petitioner viz., K. Prabhu and the respondents 4 to 10 viz., Selvam, V. Venkatesh, T.S. Rangarajan, M. Jayamani Manickam, M. Rajalakshmi, M. Kousalya and Priyanand and also to the third respondent viz., M/s Sundaram Finance Limited and determine the compensation, after hearing the above referred parties, payable in respect of the lands which has been acquired and since there is a dispute with regard to the title of the land, the respondents are directed to invoke the provisions of Secs.9(2) and 10(3) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997, by referring the dispute for the decision of the competent civil court.

(ii) the respondents are directed to complete the Award Proceedings within a period of twelve weeks from the date of receipt of copy of this order.

16. With the above observation, the writ petition is disposed of. No costs. Consequently, connected MP is closed.

Sd/-

Asst. Registrar

/true copy/

Sub Asst. Registrar.

SR

To

1. The Special Tahsildar (IA)
SIPCOT WING - III,
Sriperumbudur Expansion Scheme - II,
Sriperumbudur
2. The Special Revenue Divisional Office (PO)
Oragadam (MA),
Sriperumbudur Expansion Scheme - II
Sriperumbudur
3. The District Collector,
Kancheepuram District,
Kancheepuram

+lcc to Mr.S.Vasudevan, Advocate, S.R.No.10520
+lcc to Mr.R.Thiruneelakandan, Advocate, S.R.No.10516
+lcc to the Government Pleader, S.R.No.10583

W.P.No. 3984 and 14772 of 2014

LRS (CO)
CA (09/03/2015)



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