

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2016

CORAM

The Hon'ble Mr.Justice T.S.Sivagnanam

W.P.No.13367 of 2016

1.P.R.S.Andal
2.S.Balaji

.. Petitioners

Versus

1. The Commissioner and Secretary,
Government of Tamil Nadu,
Department of Housing and Urban Development,
Fort. St. George, Chennai-600 009.
2. The Special Tahsildar,
Land Acquisition,
Maraimalai Nagar Scheme,
Chengalpet Taluk,
Kancheepuram District.
3. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1 Gandhi Irwin Road,
Egmore, Chennai-600 008.

.. Respondents

Prayer:

Writ Petition, filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, to direct the respondents to re-convey the lands in Survey Nos.*216 and 217/1 of Potheri Village No.54, Chengalpet Taluk, Kancheepuram District, pursuant to petitioners representation, dated 19.07.2012 on the lapsed 4(1) Notification and pursuant to the issuance of G.O.Ms.No.70, dated 01.03.2007, within a time frame.

For Petitioners : Mr.R.C.Manoharan
For Respondents 1 and 2 : Mr.R.M.Muthukumar
Government Advocate
For Respondent-3 : Mr.M.Karthikeyan

O R D E R

Heard Mr.R.C.Manoharan, learned counsel appearing for petitioners, Mr.R.M.Muthukumar, learned Government Advocate,

accepting notice for respondents 1 and 2 and Mr.M.Karthikeyan, learned counsel, accepting notice for third respondent. With the consent of the learned counsel on either side, the Writ Petition is taken up for final disposal.

2. The petitioners seek for issuance of a Writ of Mandamus, to direct the respondents to re-convey the lands, comprised in Survey Nos.*216 and 217/1 situate at Potheri Village No.54, at Chengalpet Taluk, Kancheepuram District, pursuant to second petitioner's representation, dated 19.07.2012 on account of the lapsed 4(1) Notification and pursuant to the issuance of G.O.Ms.No.70, dated 01.03.2007, within a time frame.

3. The petitioners are wife and son of late P.R.Srinivasan, who purchased the lands in question and the petitioners have traced the title to the property in paragraphs 3 to 5 of the affidavit. The fact which has to be taken note of is that the said Mr.P.R.Srinivasan, son of Rangasamy Iyengar, became entitled to the property, and the petitioners, as his legal-heirs, have succeeded to the said property. The definite case of the petitioners is that the possession of the property has not been taken over, and no compensation has been paid till date.

4. After hearing the learned counsel for the parties and perusing the materials placed on record, it is seen that an identical issue in respect of the neighbouring properties, which were also covered under the same acquisition notification, viz., in G.O.Ms.No.70 of Housing and Urban Development [UD - III (1) Department], dated 01.03.2007, was considered by this Court in W.P.Nos.33015 and 33016 of 2015 in the case of [S.P.Santhanam and others Vs. The Commissioner and Secretary, Government of Tamil Nadu, Department of Housing and Urban Development, Fort St. George, Chennai and two others]. This Court, after taking into consideration, the order passed in Writ Appeal No.2254 of 2001, dated 29.10.2014, allowed the above said Writ Petitions, by order, dated 16.11.2015, and the operative portion of the order reads as follows:-

"8. In the light of the above, the Writ Petitions are allowed following the decision of the Hon'ble First Bench in W.A.No.2254 of 2001 dated 29.10.2014, by directing the respondents to re-convey the lands comprised in Survey Nos. 216, 217 and 219/4 of Potheri Village, Chengalpet District to the petitioners subject to the condition that if the petitioners have received the compensation in terms of the law, the same shall be remitted back to the respondents within a period of six weeks from the date of receipt of a copy of this order and if not, the second respondent

is directed to re-convey the lands to the petitioner within a period of three months from the date of receipt of a copy of this order. If the officials respondents are of the opinion that the lands in question is still required for public purpose, they could do so by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013."

5. The respondents do not dispute the position and agreed that the issue involved in this Writ Petition is covered by the earlier order passed by this Court. Accordingly, following the earlier order passed by this Court in W.P.Nos.33015 and 33016 of 2015, referred to supra, this Writ Petition is allowed, in the light of the decision of the Hon'ble First Bench in W.A.No.2254 of 2001 dated 29.10.2014, by directing second respondent to re-convey the lands comprised in Survey Nos.*216 and 217/1 of Potheri Village No.54, Chengalpet Taluk, Kancheepuram District to the petitioners, subject to the condition that if the petitioners have received the compensation in terms of the law, the same shall be remitted back to the respondents, within a period of six weeks from the date of receipt of a copy of this order, and if not, the second respondent is directed to re-convey the lands to the petitioners within a period of three months from the date of receipt of a copy of this order. If the official respondents are of the opinion that the lands in question are still required for public purpose, they could do so by following the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

6. In the result, the Writ Petition is allowed, as stated above. No costs.

sd

s/d-

Assistant Registrar(CS-III)

**Corrected as per order
dated 21.04.2016 in WMP
No.13080/16 in WP.**

Sd/-

**Assistant Registrar(CS III)
28.04.2016**

True Copy

Sub-Assistant Registrar

To

1. The Commissioner and Secretary,
Government of Tamil Nadu,
Department of Housing and Urban
Development,
Fort. St. George, Chennai-600 009.

2. The Special Tahsildar,
Land Acquisition,
Maraimalai Nagar Scheme,
Chengalpet Taluk,
Kancheepuram District.

3. The Member Secretary,
Chennai Metropolitan Development
Authority,
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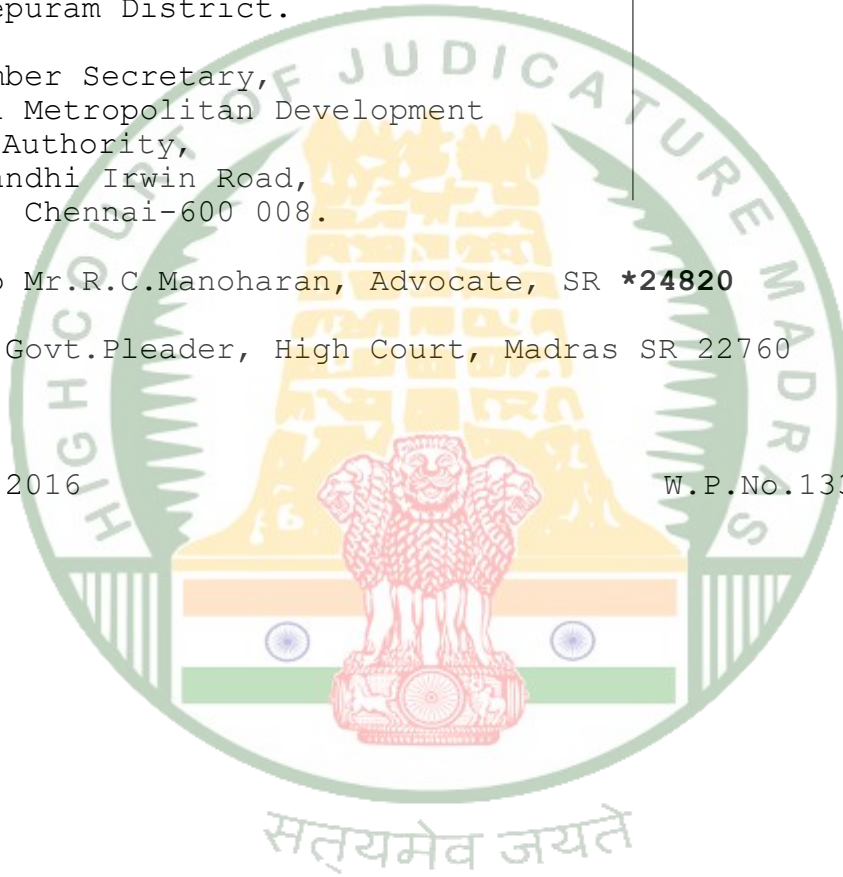
+ 2 ccs to Mr.R.C.Manoharan, Advocate, SR *24820

+ 1 cc to Govt.Pleader, High Court, Madras SR 22760

bvr(co)
prk15/4
kra 28.04.2016

To be substituted
to the order already
despatched on
15.04.2016.

W.P.No.13367 of 2016



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