

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.1652 of 2016

1. G. Sekar
2. G.Prabhakaran

.. Petitioners

Vs.

- 1.The Secretary,
Highways Department,
Government of Tamilnadu,
Fort St. George, Chennai 600 009.
- 2.The District Collector,
Kancheepuram District,
Kancheepuram.
3. The Revenue Divisional Officer,
Chengalpattu,
Kancheepuram District.
4. The Tahsildar,
Thirukazhukundram Taluk Office,
Kancheepuram District.
5. The Assistant Director,
Survey and Land Records Department,
Kancheepuram.
6. The Project Officer- ECR,
The Tamilnadu Road Development
Corporation Limited,
Panthean Road, Egmore,
Chennai 600 008.

.. Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents to consider the representation of the petitioners dated 26.08.2015 made to the respondents with a request to conduct field survey in S.Nos. 9/15, 9/37, 246/43 and 246/44 in Devaneri Village, Tirukkazhukundram Taluk, Kancheepuram District in the said extent and demarcate the left out lands by laying corner stones, to pay appropriate compensation and grant alternate site and to cancel the wrong sub-division and pass appropriate orders on the representation with the time frame fixed by this Court.

For Petitioners	:	Mr.C.R.Dhasarathan
For Respondents	:	Mr. R.A.S.Senthilvel
		Addl. Govt . Pleader

ORDER

The Petitioner has filed this Writ Petition seeking for a mandamus upon the respondents to consider the representation of the petitioners dated 26.08.2015 made to the respondents with a request to conduct field survey in S.Nos. 9/15, 9/37, 246/43 and 246/44 in Devaneri Village, Tirukkazhukundram Taluk, Kancheepuram District in the said extent and demarcate the left out lands by laying corner stones, to pay appropriate compensation and grant alternate site and to cancel the wrong sub-division and pass appropriate orders on the representation within a time frame that may be fixed by this Court.

2. Heard Mr.C.R.Dhasarathan, learned counsel appearing for petitioners and Mr.R.A.S.Senthilvel, learned Additional Government Pleader, who took notice for the respondents.

3. The case of the petitioners is as follows;

(i) According to the petitioners, the petitioners, who are brothers are absolute owners of S.Nos. 9/15, 9/37, 246/43 and 246/44 which are classified as Graman Natham situate in Devaneri Village, Tirukkazhukundram Taluk, Kancheepuram District and they are in continuous and peaceful possession and enjoyment of the same.

(ii) The High Ways Department, in order to develop the E.C.R Road, Tiruvanmiyur - Mamallapuram - Marakkanam - Pondicherry, proposed to lay down two lane road and in pursuant of which, the respondents being the appropriate authorities, while acquiring lands under Tamilnadu Highways Act 2001, demolished petitioners' residential house, poultry chicken farm house, standing trees and other agricultural utilities and acquired major portion of their lands situate in the above said survey numbers. In the said land acquisition process, the petitioners have lost some larger extent of lands in addition to the above acquired lands mentioned in the above survey numbers and in consequence of which, the respondents have paid a sum of Rs.1,54,149/- to the first petitioner and Rs.55,411/- to the 2nd petitioner as per their calculations. But the said amounts are not the appropriate compensation for the above acquired admitted extent of lands and apart from the above admitted extent, some more extent of lands have been acquired due to deviation from the original proposed acquisition process and the petitioners have not been paid compensation towards the additionally acquired lands by the respondents. Due to the above act of the respondents, since major portion of their lands have been taken away by the Government on both sides of their lands, and road have been laid in between the lands, the petitioners are now unable to ascertain the remaining extent

of left out lands after acquisition, for their peaceful possession and enjoyment.

(iii) Further, though the petitioners were given alternate site in S.No.9/6B in the same village for an extent of 3 cents each, by the respondents, all of a sudden, the revenue authorities/respondents have dispossessed them by construing them as encroachers and now the petitioners are suffering without basic shelter as enjoyed by the similarly placed persons. The criminal case filed against the petitioners in this regard in C.C.No.43 of 2003 before the District Munsif cum Judicial Magistrate Court, Thirukkazhukundram have ended in acquittal by order dated 28.1.2011.

(iv) Apart from that, the petitioners came to know that the land in Survey No.246/44 had been wrongly sub divided as 246/47 in the name of Pa.Prakasam and 246/48 in the name of G.Prabakaran and in pursuance of which, the petitioners made a representation on 17.12.2014 requesting to cancel the said sub division and restore it in the original survey No.246/44. But the said representation had been kept pending till date.

(v) Further, the petitioners have made a common representation dated 26.8.2015 with a request to once again consider their case in a proper and sympathetic manner for conducting proper field survey in respect of their entire extent of lands in S.Nos.9/15, 9/37, 246/43 and 26/44 situate in Devaneri Village, Tirukkazhukundram Taluk, Kancheepuram District on the basis of their patta Nos.275, 75, 174 and 203 along with sale deed to ascertain the actual and correct extent of lands acquired for the formation of the earlier two way lane which is presently made as four way lane (ECR) road in the above lands, demarcate the remaining lands left out by laying corner stones on the four side of their lands excluding the actual extent of lands acquired from and out of the total extent of their lands as stated above and to pay appropriate compensation for the acquired lands, cancel the erroneous sub division that was made in S.No.246/44 as 246/47 and 246/48 and restore it to the original survey No. as 246/44 and to allot alternate site to them in S.No.9/6B in Devaneri Village, Tirukkazhukundram Taluk, Kancheepuram District or in the adjacent lands in the same survey number and village for an extent of 3 cents. The said representation has been kept pending by the respondents till date without any consideration.

(vi) While so, the petitioners received a proceedings of the respondents dated 5.9.2015 on 21.09.2015 stating to submit a fresh application with required documents in respect of their claim. Thereafter, the petitioners made a representation dated 22.9.2015 to the 3rd respondent quoting their earlier representation dated 26.8.2015 may be treated as the explanation

to the proceedings dated 5.9.2015 and requested to pass orders on the same, but the same has been kept pending by the respondents without passing any orders.

4. Learned counsel for the petitioner submitted that though this writ petition has been filed seeking for a larger relief, it would suffice if the representation of the petitioner dated 26.8.2015 would be considered and necessary orders be passed by the respondent within a time limit that may be fixed by this court.

5. Though very many issues have been raised in this writ petition, the prayer now sought for by the learned counsel for the petitioner is only to direct the respondents to consider the representation of the petitioner dated 26.8.2015 made to the respondents requesting (i) to conduct field survey in their lands in order to demarcate the left out lands by laying corner stones (ii) to pay appropriate compensation (iii) to grant alternate site and (iv) to cancel the wrong sub division.

6. In view of the submissions of learned counsel for petitioner, this Court, in the interest of justice, without going into the merits of the case, directs the 2nd respondent to consider the representation of the petitioner dated 26.8.2015 and pass appropriate orders on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioners as well as to the necessary parties within a period of eight weeks from the date of receipt of a copy of this order.

7. It is made clear that this court has not expressed any opinion with regard to the merits of the claim made by the petitioners and it is upon the respondents to consider the representation of the petitioners purely on merits.

8. With the above direction, this Writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

msr

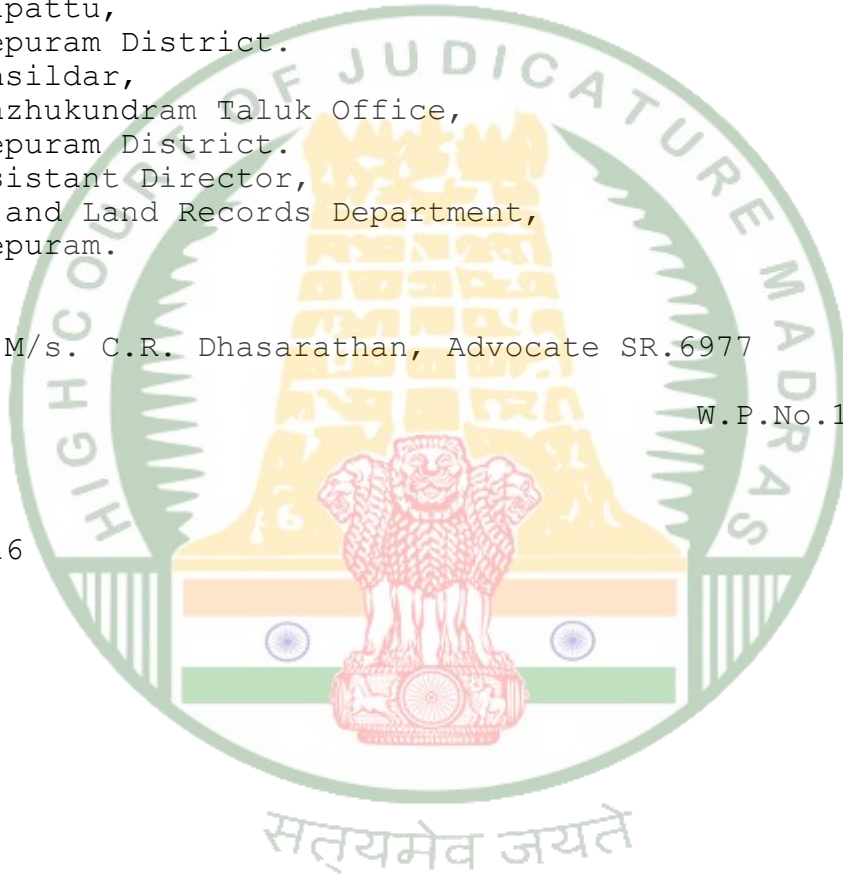
To

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+ 1 cc to M/s. C.R. Dhasarathan, Advocate SR.6977

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