

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2016

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.28237 of 2015

&

M.P.Nos.1 & 2 of 2015

1.Natarajan

2.K.N. Paramasivam

3.S.N. Raja

4.K.N. Sekar

5.Jeyanthi

6.Smt. Geetha

7.B. Udayakumar

8.B. Delhi Babu

9.Kathalingam

10.Smt. Saraswathy

2 to 10 petitioners represented
by their power of attorney

S.Natarajan/1st petitioner

... Petitioners

सत्यमेव जयते
Vs.

1. State of Tamil Nadu Rep. by
its Secretary to Government
Revenue Department Fort St. George
Chennai - 600009

2. The District Collector (Chennai)
Singaravelar Maligai
Chennai - 600 001

3. The Special Tahsildar (Land Acquisition)
Head Quarters Mylapore-
Triplicane Taluk Chennai - 600 026

4. The Chief General Manager
BSNL-Chennai Telephones
No.78 Purasawakkam High Road
Chennai - 600 010

5. Addl. DGM (B&CCS)
B.S.N.L RKN Telephone Exchange
238/164 R K Mutt Rd Chennai - 28

6. The Sr.Dy.Collector
L.A. Work Chennai City
Chennai 1

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus calling for records pertaining to the Award passed in No.2 of 1971 dt 3.3.1971 by the 6th respondent under Land Acquisition Proceedings for Constructing Mylapore Telephone Exchange Office Building on the file of the 3rd and 4th respondents, quash the same and consequentially direct the 4th and 5th respondents to re-convey the vacant land measuring an extent of 2 grounds and 2341 sq.ft. in R.S. No. 4230-16 (part) newly subdivided as R.S. No. 4230-77 and an extent of 2 grounds and 0074 sq.ft. in R.S. No. 4230-52 newly subdivided as 4230-78 situated at Chennai District South East Taluk Mylapore Village to the Legal Heirs of the Late Thiru Kandaswamy Gramini (Original Owner).

For Petitioner : Mr.Perumbulavil Radhakrishnan

For Respondents : Mr.R.Rajeswaran,
Special Government Pleader
for R1 to 3 and 6

Mr.S.Udayakumar, SCGC for R4 and 5

O R D E R

Heard learned counsel for the petitioner and the learned Special Government Pleader for the respondents 1 to 3 and 6 and learned SCGC for the respondents 4 and 5.

2. It is the case where the petitioners are claiming a right over the lands which were acquired in the year 1970-71 on the ground that their lands were owned by their ancestors and the land which was been acquired by the Government has not been utilized till date and seek for quashing the award which was passed on 3.3.1971 and to reconvey the property.

3. The sole ground on which the petitioners seek for reconveyance is by contending that the lands though acquired during 1970 has not been utilized till date and therefore the lands has to be reconveyed by exercising power under Section 48 (B) of the Act.

4. In my view the writ petition is thoroughly misconceived and clearly an abuse of process of Court and I support this conclusion with the following reasons:

As noticed from the affidavit filed in support of the writ petition, the petitioners claim right to the land in question through late Kandasamy Gramini. The averments in the counter affidavit disclose that Kandasamy Gramini was not the owner of the property and therefore no person much less the petitioners claiming to be their legal heirs have no semblance of right over the property in question. It is further seen that Kandasamy Gramini's name is mentioned in the Gazette as one of the four persons. The others being L.Sundaram Iyer, Ranganayakalu Chettiar and Ramachandran. After due verification of the documents in the award enquiry the authority concluded that V.Ranganayakaly Chetty and V. Ramachandran were the owners of the lands and Award No.2/71 dated 03.03.1971 was passed in their favour.

However, those persons did not obtain patta and consequently the name was not transferred in the permanent land register and hence the registers stood in the names of Kandasami Gramani and Sundaram Iyer at the time of award notification in the permanent land register maintained at the Taluk office. Therefore, the copy of the award was forwarded to the Tahsildar, South-East Taluk for carrying out the necessary changes in the Revenue and Survey records and accordingly in Taluk File No.B1/4992/1971, sub-division records had been prepared and duly approved and changes had also been carried out and the lands were entered in the Government Land register. The lands are under the possession of Telephones department.

5. From the counter affidavit it is clearly seen that the land has been handed over to them and they have taken over possession in 1971 and the compensation amount has been deposited in the Court on 17.10.1973. Thus, both the contingencies which are found in Section 24 (2) of Act (30 of 2013) has been fulfilled. Further, it is stated that the challenge to the award passed on 03.03.1971 by filing this writ petition in the year 2015 is barred by inordinate delay and latches. That apart, the decision of the Hon'ble Supreme Court in Tamilnadu Housing Board vs. V. Keeravani Ammal, 2007 9 SCC 255 also precludes the petitioners from seeking for any relief u/s. 48(B) of the Act.

6. Further, on the factual aspect it is submitted that the telephone exchange was constructed and the land is just opposite to the telephone exchange is not abandoned as alleged and the land is well protected by compound wall and the patta was issued in the name of Madras Telephone Exchange as early as 2006 by the revenue authorities.

7. That apart, the Government of India, Ministry of Communications and Information Technology, Department of Telecommunications had taken steps during May 2014 in the meeting held in planning commission (now NITI Aayog) wherein decision was taken to utilize the land and thereafter meetings have been held subsequently by the submarine OFC between Chennai to Andaman Nicobar Islands, the steps taken will clearly show that the lands have already been put in use.

8. In the light of the above factual circumstances, present attempt of the petitioner after 45 years is an adventurous attempt and definitely they should lose in this misadventure.

9. Accordingly, the writ petition fails and is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary
Government Revenue Department
Fort St. George
Chennai - 600009
2. The District Collector (Chennai)
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3. The Special Tahsildar (Land Acquisition)
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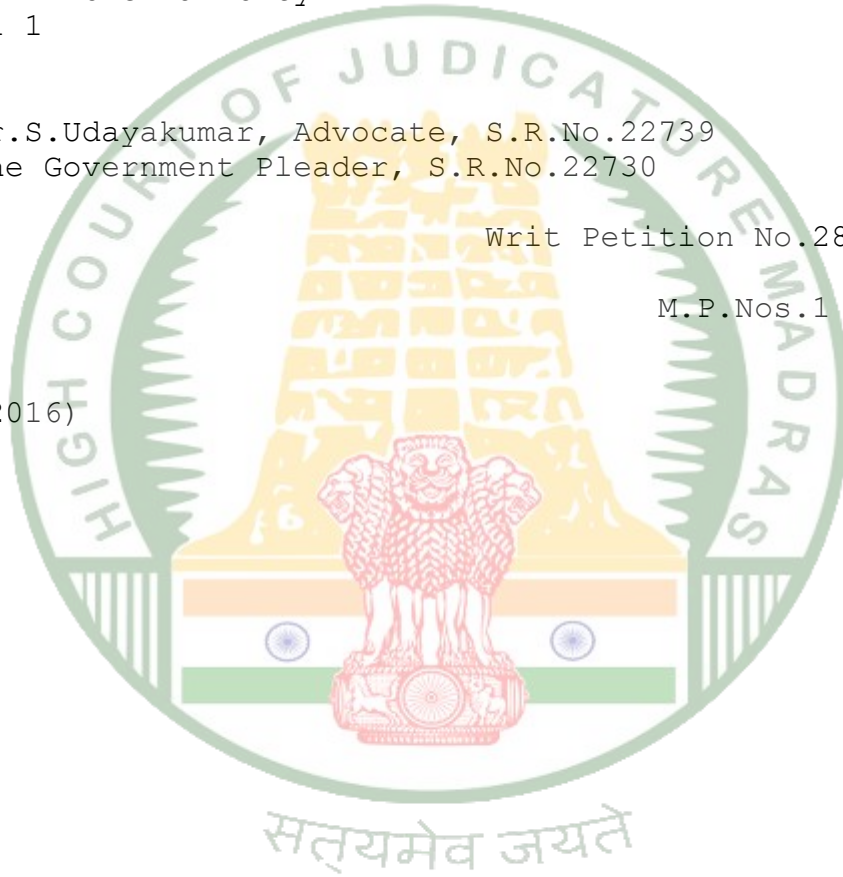
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Chennai 1

+1cc to Mr.S.Udayakumar, Advocate, S.R.No.22739
+1cc to the Government Pleader, S.R.No.22730

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M.P.Nos.1 & 2 of 2015

PPA (CO)
CA (28/04/2016)



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