

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2016

CORAM:

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P. NOs. 299 and 2440 of 2015
and
MP Nos. 1 and 1 of 2015

D. Sundar Raj ... Petitioner
in WP. No.299/2015
Md. Mahaboob Basha ... Petitioner
in WP. No.2440/2015

-vs-

1. The Government of Tamil Nadu
Rep. By its Secretary
Industries Department
Fort St. George
Chennai - 600 009.
2. The Special Tahsildar
(LA) Unit -1, SIPCOT
Sriperumbudur Expansion
Scheme -2
Sriperumbudur.
3. The District Collector
Sriperumbudur
Kancheepuram District. ... Respondents
in both Wps

Both the Writ Petitions are filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent, the District Collector, Kancheepuram, Na.Ka. No. 1436/2013/A1/Unit-1 dated 28.01.2014 refusing the compensation, quash the same and further direct the 2nd respondent to pass orders of compensation to the petitioners and pass further orders.

For petitioner : Mr. S . Giridharan

For respondents : Mr. R.M. Muthukumar, AGP

O R D E R

In both these Writ Petitions, the challenge is to the memo issued by the District Collector, Kancheepuram District, by which the claim for compensation in respect of the lands acquired from the petitioners, have been denied on the ground that the lands do not form part of the approved lay out and that the land owner M/s. Adarsh Homes, from whom the petitioners have purchased the lands, are not the owners of the said property. There are two petitioners, namely, D. Sundar Raj and Md. Mahaboob Basha.

2. In the case of D. Sundar Raj, it is admitted by the District Collector, Kancheepuram that the petitioner has purchased an extent of 2400 sq.ft., in Plot No.229, comprised in Survey No. 19/2B of No.174 Vadacal 'A' Palanallur Village but they seek to deny the compensation to the petitioner in respect of the lands in Survey No.18/10B and it is mentioned that the same is Plot No. 229. However, in the impugned memo dated 28.01.2014, there is a over writing. The petitioner's case is that he is concerned only with Plot No.229 comprised in Survey No.19/2B, which has been notified and taken possession from him. Without conducting any enquiry into the matter, the District Collector has passed the impugned memo, thereby denying the lawful compensation.

3. In the case of Md. Mahaboob Basha, the petitioner is the owner of Plot No.233, measuring an extent of 2400 sq.ft., comprised in Survey No.19/2B. However, compensation is sought to be denied on the ground that the petitioner has not purchased the land.

4. Firstly, as pointed out, the impugned memos have been issued, without conducting any enquiry or issuing notices to the petitioners. Therefore, there is a gross violation of the principles of natural justice and this alone is sufficient to quash the proceedings. Interestingly, the notices issued by the authority in Forms 'A' and 'E', have recognised the petitioners as owners to the respective lands and in fact notices had been issued to the petitioners to surrender the possession. Whiles, it is not known as to how the District Collector, came to the conclusion that the petitioners are not the owners of the property. Admitted conclusion is that, in the case of D. Sundar Raj, while the District Collector admits that he is the owner of Plot No.229 in Survey No.19/2B, refers to another Survey Number in the same Plot No. 229 and denies him compensation for Plot No.229. Both the petitioners are very clear in their case and they have claimed compensation for Plot Nos. 229 and 233 respectively.

5. In the light of the above, the impugned memo cannot be sustained and has to be definitely held to be not in accordance with law.

6. In the result, the Writ Petitions are allowed and the impugned memos dated 28.01.2014, are quashed. The matter is remanded to the third respondent, the District Collector, Kancheepuram District, for fresh consideration and to issue notices to the petitioners as well as call for all the records from the second respondent, examine the original documents of the petitioners and thereafter pass fresh orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. Consequently, the Miscellaneous Petitions are closed. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Secretary to Government
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Kancheepuram District.

+1 cc to M/s.Suresh advocate sr.7370

+ 1 cc to Mr.S.Giridharan, Advocate Sr 7369 (4/4/16)

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