

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2016

CORAM

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) No.442 of 2016

&

C.M.P.No.2275 of 2016

S.Arunachalam

... Petitioner

vs.

1.Maadhu

2.Dhanam

3.Kokila

4.Amaravathi

5.The Special Thasildar (Land Acquisition)

NH.68, Udayapatti, Salem

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside fair and final order dated 21.11.2015 passed in I.A.No.976 of 2015 in O.S.No.1048 of 2011 on the file of the I Additional District Munsif Court, Salem and the allow the above C.R.P

For Petitioner : Mr.R.Nalliyappan

ORDER

The plaintiff in the original suit O.S.No.1048 of 2011 pending on the file of the First Additional District Munsif, Salem is the petitioner herein. The

suit came to be filed against the respondents for the following reliefs:

- 1) A mandatory injunction directing the 5th defendant to pay the compensation amount for the suit property, which was acquired by the Government for a public purpose to the plaintiff; and
- 2) A permanent injunction restraining the 5th defendant from disbursing the amount of compensation in favour of respondents 1 to 4 in respect of the property comprised in S.No.221 of 2003, which was the subject matter of acquisition.

2. The said land having an extent of 2753 sq.ft has been shown as the suit property in the plaint schedule. The suit itself is one barred by the provisions of the Land Acquisition Act. Sensing that his suit may be thrown out on the ground of maintainability, the petitioner seems to have filed a petition under Order VI Rule 17 CPC for amendment of the prayer part of the plaint to include a prayer for declaration in respect of the title to the suit property.

3. The learned trial Judge rightly dismissed the petition for amendment and the same is sought to be challenged in the present Civil Revision Petition. As the suit originally filed itself is not maintainable, an attempt has been made by the petitioner to amend the plaint by including a prayer for declaration in respect of the title to the suit property, which has been lost by the acquisition by the Government.

Hence, the Civil Revision Petition is dismissed at the stage of admission itself. If so advised, the petitioner can approach the trial Court to withdraw the suit and approach the appropriate forum for appropriate relief. No costs. Consequently, the connected miscellaneous petition is closed.

18.02.2016

Index: Yes/No
Internet: yes/No
gpa

To

I Additional District Munsif Court
City Civil Court, Salem

P.R.SHIVAKUMAR.J.,

gpa

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