

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.23007 of 2016

&

W.M.P.No.19720 of 2016

T.Anna Niraja

.. Petitioner

-vs-

1. The Additional Chief Secretary
to Government
Highways & Minor Ports (HF2) Department
Fort St.George
Chennai-9
2. The District Collector
Kancheepuram District
3. The Revenue Divisional Officer
Chengalpattu
Kancheepuram District
4. The Tahsildar
Tiruporur, Kancheepuram District
5. The Inspector General of Registration
Santhome, Chennai-28
6. The District Registrar
Kancheepuram District
7. The Managing Director
Tamil Nadu Road Development Company Ltd.,
No.171, 2nd Floor, TNMB Building
South Kesavaperumal Puram
Greenways Road, R.A.Puram
Chennai 600 028

8. The Highways Engineer (Senior Grade)
Tamil Nadu Road Development Company Ltd.,
No.171, 2nd Floor, TNMB Building
South Kesavaperumal Puram
Greenways Road, R.A.Puram
Chennai 600 028

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records in impugned notice issued by the eighth respondent in Ref.No.TNRDC/ECR/Sr.Hy Engr./819/2015 dated 11.12.2015 and the consequential impugned order in Letter No.90/HF2/2016-8 dated 21.06.2016 passed by the first respondent herein and quash the same and consequently forbearing the seventh and eighth respondents from proceeding further with demolishing of the shop in the landed property to the extent of 750 Sq.ft. in S.No.95/1A4B1B, Muttukadu Boat House Entrance, Gold Point Shop, Mutukaddu, Tiruporur Taluk, Kancheepuram District, till the final decision in payment of fair compensation is taken and paid to the petitioner by the seventh and eighth respondents.

For Petitioner ::Mr.T.Sundaravadanam

For Respondents ::Mr.P.S.Sivashanmugasundaram
Special Government Pleader
for R1 to R6
Mr.D.Srinivasaraghavan for R7 & R8

ORDER

(Order of the Court was delivered by HULUVADI G.RAMESH, J.)

Heard the learned counsel for the petitioner, the learned Special Government Pleader taking notice on behalf of the respondents 1 to 6 as well as the learned counsel taking notice on behalf of the respondents 7 & 8.

2. Pursuant to the notice issued, an enquiry was conducted and it appears that the petitioner is shown to have purchased a property which fell on a different survey number. In the circumstances, citing a different survey number, the property was sold to the petitioner by the erstwhile owner and if the property is acquired as per the law of the land by the highways authority for widening the road and that too, after the property is sought to have been acquired by issuing a due notification, the remedy of the petitioner lies only against the erstwhile owner and not against the person who has acquired the property, that is the authority under due notification.

3. We do not find any error committed by the respondents in taking possession of the property pursuant to the acquisition proceedings. The stand of the petitioner is that the Sub Registrar ought not to have registered the document, for which the petitioner could have rather followed the principle of 'caveat emptor'-let the buyer beware, as the allegation with regard to the imperfection of title or the fraudulent transaction cannot be raised subsequent to such notification. In the circumstances, the petitioner is at liberty to proceed against the erstwhile owner who sold the property by cheating. Even he can take recourse of filing a complaint against the erstwhile owner, if so advised. However, the submission of the learned counsel for the petitioner is that the amount is lying in revenue deposit. In that event, it is for the petitioner to make an application before the District Collector or the Revenue Divisional Officer concerned not to release the amount in favour of the erstwhile owner, in view of the fact that the petitioner had already purchased the property and there is no illegality in the purchase of the property and the District Collector or the Revenue Divisional Officer concerned would take care of the situation and pass necessary orders after hearing the other persons who are making the claim. With these observations, the writ petition is closed. Consequently, W.M.P.No.19728 of 2016 is closed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ss

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To

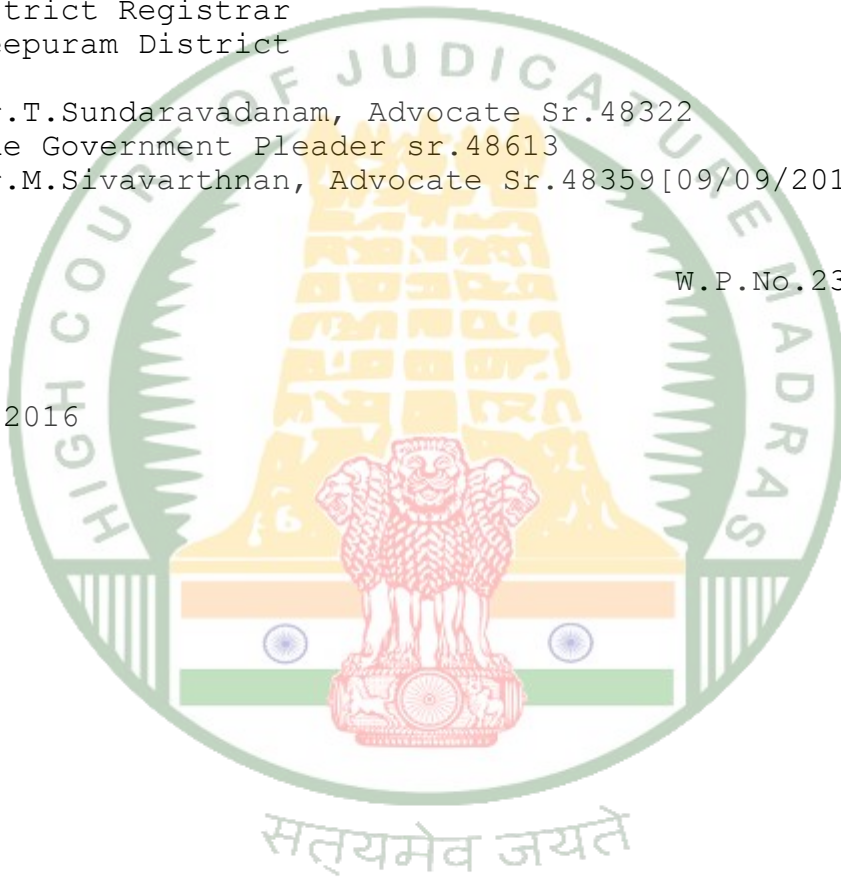
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6. The District Registrar
Kancheepuram District

+1cc to Mr.T.Sundaravadanam, Advocate Sr.48322
+1cc to the Government Pleader sr.48613
+1cc to Mr.M.Sivavarthnan, Advocate Sr.48359[09/09/2016]

W.P.No.23007 of 2016

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