

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. No.14748 of 2010
and
M.P. Nos.1 to 3 of 2010

1.K.Suguna
2.N.Punitha

... Petitioners

Vs.

1. The Competent Authority
cum Special District Revenue Officer (Land Acquisition)
National Highway 68, Salem - 4.

2. The Project Director,
Highways Authorities of India,
National Highway 68
Salem-4.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the entire records of the 1st respondent in Na.Ka.No.265/09, dated 18.03.2010 and quash the same and consequently directing the respondents to pay the due compensation for the land measuring 320 square meters situated in Survey No.167/2C2 of Nathakarai Village, Attur Taluk without prejudice to their right to claim more compensation under Section 19 of the Highways Act, 1956.

For Petitioners : Mr.R.Karthikeyan

For Respondents : Mr.P.Sanjay Gandhi,
learned Additional Government Pleader
for R1
Mr.Richardson Wilson
M/s.Wilson & Associates for R2

O R D E R

The prayer in the Writ Petition is to issue a Writ of Certiorarified Mandamus to call for records in respect of the first respondent in Na.Ka.No.265/09, dated 18.03.2010, quash the same and consequently to direct the respondents to pay the due compensation for the land measuring 320 square meters situated in Survey No.167/2C2 of Nathakarai Village, Attur Taluk.

2. The case of the petitioners, as per the affidavit, is that, the petitioner jointly purchased the land in Survey No.167/2C2, measuring 3 acres 45.5 cents, under a registered sale deed, dated 30.08.1996. The patta was also transferred jointly in the name of the second petitioner. The petitioners claim that they are the absolute owners of the property.

3. The petitioners submitted that for the purpose of laying National Highways No.68, a portion of the land, i.e. 320 square meters, is sought to be acquired and the respondents also mentioned the name of the petitioners in the acquired land, during the acquisition proceedings. Therefore, the petitioners would submit that they have to get their due compensation from the respondents.

4. However, the first respondent issued proceedings in Na.Ka.No.265/09, dated 18.03.2010, whereby it is stated that the land acquired by the Government originally allotted to the Harijans and subsequently purchased by the petitioners. Hence, they are not entitled to get due compensation.

5. The first respondent has filed a counter affidavit, wherein at paragraph 5, it is stated that the ownership certificate issued by the Village Administrative Officer as well as Revenue Accounts (i.e. A register, 10(I) Chitta) maintained at Taluk Office, Attur, reveals that the land was initially assigned to one Sellamuthu and subsequently it was purchased by the Writ petitioners and as per the transactions, patta has been transferred in the name of writ petitioners erroneously. Further, in paragraph 7 of the counter affidavit filed by the first respondent, it has been stated as follows:-

"7. Regarding Para 7 of the affidavit, it is submitted that the land in question was initially assigned to M.Sellamuthu in the Fasli Year 1372 under conditional assignment category which is not giving any benefit to the subsequent assigner or transferee who does not belongs to S.C. Community, this does not confer that the condition of assignment was not violated. It is an absolute case in which the condition of assignment was violated and hence the amount of compensation has been ordered to be kept under joint account of Competent Authority and Special District Revenue Officer and Project Director, Salem. The matter is now with the Revenue Divisional Officer, Attur who is the authority to decide and the Competent Authority and Special District Revenue Officer (L.A.) has no other go except to keep the value for the land under Joint Account".

6. Heard the learned counsel for the respective parties.

7. This Court, by Order, dated 07.02.2011, after having observed that the land in question cannot be treated as Government land, directed the second respondent to deposit the compensation in respect of the land in question, with the first respondent within a period of two weeks.

8. Pursuant to the said order of this Court, according to the learned counsel for the second respondent, the compensation amount has been deposited with the first respondent and the amount is lying with the first respondent only. It is also a fact that it is an absolute case in which the condition of assignment was violated and hence, the amount of compensation was ordered to be kept under the first respondent.

9. Pursuant to the compensation amount awarded by the Court, the proceedings might very much lie with the first respondent. Now, the only issue that has to be decided by the competent authority / respondent is as to whether the petitioners are entitled to get compensation for the land acquired, in view of the aforesaid fact that the land stands in the name of the petitioners and no rival claimants or anything contra to the interest of the petitioners, have been made by the Government.

10. When once such a decision is taken by the first respondent about the entitlement and their compensation, then the issue can be given a quietus and for that purpose, the first respondent is hereby directed to take up the issue and decide the same, based on the entire materials available on record, of course, by giving an opportunity of personal hearing to all the parties, including the petitioners and rival claimants, if any. It is made clear that the outcome of the order to be passed by the first respondent can be challenged by either of the parties, if they are so advised. The said exercise shall be completed by the 1st respondent within eight weeks from the date of receipt of this order.

11. With the above observations, the Writ Petition is disposed of. No costs. Consequently connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(J)

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Sub Assistant Registrar

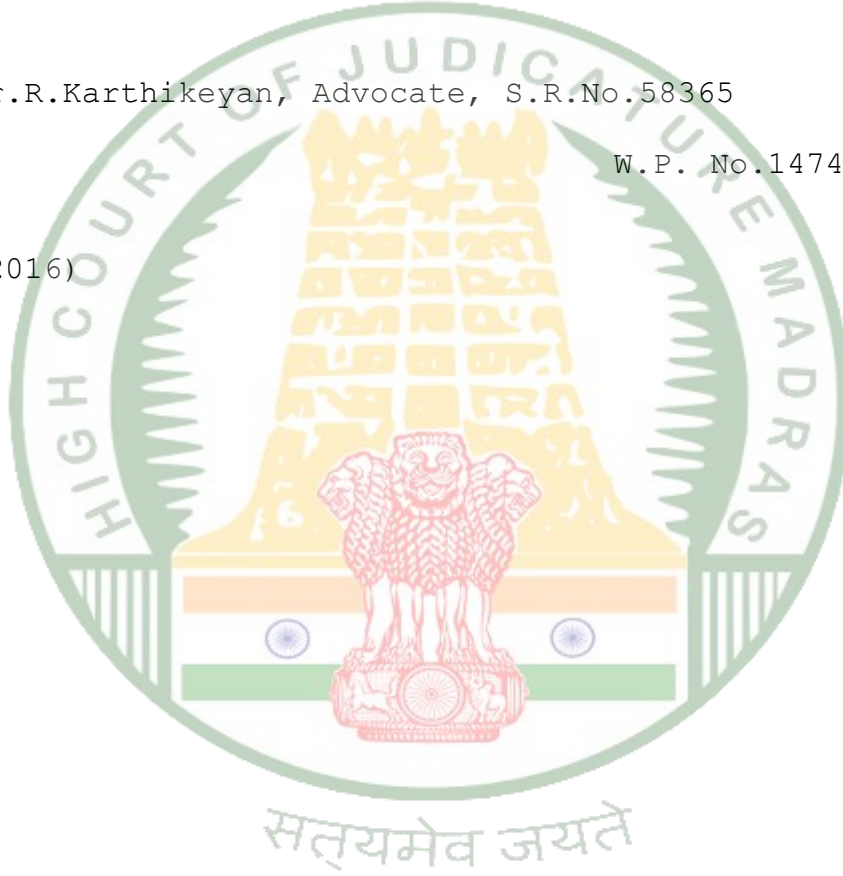
To

1. The Competent Authority cum
Special District Revenue Officer (Land Acquisition)
National Highway 68
Salem - 4.
2. The Project Director,
Highways Authorities of India,
National Highway 68
Salem-4.

+1cc to Mr.R.Karthikeyan, Advocate, S.R.No.58365

W.P. No.14748 of 2010

CA(CO)
CA(18/11/2016)



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