

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.5255 of 2016
W.M.P.No.4624 of 2016

1. Mr.V.Manivannan
2. Mr.V.Gnanasekaran
3. Mrs.Tamil Selvi .. Petitioners

Vs

1. The Government of Tamil Nadu,
rep. by its Commissioner and Secretary,
Housing and Urban Development Department, UD-3,
St.George Fort, Chennai-600009.

2. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Malligai,
No.1, Gandhi Irwin Road, Chennai-600 008.

3. Tamil Nadu Housing Board,
rep. by its Chairman, Nandanam,
Chennai-600 035.

4. The Special Tashildar (L.Aq.),
Market Management Committee Building,
Koyambedu, Chennai-600 0092.

5. The District Revenue Officer,
Land Acquisition,
Chennai Metro Rail Limited,
Koyambedu, Chennai-600 092 .. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, to forbear the respondents from interfering with the petitioners' peaceful possession and rightful enjoyment of the property over Plot No.1 comprised in Survey No.159/2 at the Fair Town, Kesavapuram, Koyembedu, Chennai-600 092 measuring an extent of 1 ground and 1000 sq.ft. without acquisition of petitioners land.

For Petitioner : Mr.K.M.Venugopal

For Respondent : Mr.R.Rajeshwaran, Spl.G.P.
For R1, 4 and 5
Mr.M.Karthikeyan for R2
Mr.B.Vivekavanana for R3

ORDER

This Writ Petition has been filed, praying for the issuance of Writ of Mandamus, to forbear the respondents from interfering with the petitioners' peaceful possession and rightful enjoyment of the property over Plot No.1 comprised in Survey No.159/2 at the Fair Town, Kesavapuram, Koyambedu, Chennai-600 092 measuring an extent of 1 ground and 1000 sq.ft.

2. According to the petitioners, they jointly inherited the property situated in Survey No.159/2 at Koyambedu village, Chennai measuring 1 ground and 1000 sq.ft. In Plot No.1 at fair town, Kesavapuram, Koyambedu, Chennai from their father Late M.Varadharajan. They intended to construct residential houses in the said land and also obtained necessary planning permission from Corporation of Chennai on 5.11.1996.

3. It is stated that the 1st and 3rd respondent notified their land for acquisition long prior under Section 4(1) of Land Acquisition Act, 1894 in the year 1975 vide G.O.Rt.221, dated 1.1.1975 and after formalities, award was also passed in the year 1986. Aggrieved by the said award, the petitioners' father filed a writ petition in W.P.No.2650 of 1984, which came to be allowed by this Court on 21.1.1988. However, after lapse of a long time from the date of quashing the earlier acquisition proceedings, again the Tamil Nadu Housing Board issued a fresh notification for acquisition of land in the year 1998 for formation of Koyambedu Wholesale Market Complex, vide G.O.Ms.No.429, dated 13.11.1998. In the year 2001, another fresh notification was also issued. In the said notifications, the land of the petitioners did not find place. While so, the 5th respondent inspected the property of the petitioners and declared that the property had been acquired by Award No.8/1986 despite the fact that the said award was quashed by this Court as early as on 21.1.1988. Thereafter, 5th respondent also interfered with the property and demolished the compound wall and when the same was questioned, by letter, 07.03.2015, 5th respondent informed that the land was acquired and compensation was awarded by the Land Acquisition Officer and hence, the petitioners have no right or claim over the property. Therefore, the petitioners sent a representation to the respondents on 28.3.2015 with all relevant details. There was no reply from the 5th respondent. Apprehending interference by the respondents,

the petitioners have come forward with the present writ petition, seeking to forbear them from interfering with the peaceful and enjoyment of their property.

4. Though this Court is not inclined to grant the relief as sought for in the writ petition, in view of the fact that the representation made by the petitioners, dated 28.3.2015 is still pending with the 5th respondent, without advertting to the merits of the case, it would be appropriate to direct the 5th respondent to dispose of the representation of the petitioners, dated 28.3.2015 in accordance with law.

5. Accordingly, the writ petition is disposed of, directing the 5th respondent to dispose of the representation of the petitioners, dated 28.3.2015 in accordance with law and on merits, within a period of 8 weeks from the date of receipt of a copy of this order, after affording an opportunity of personal hearing to the petitioners. The petitioners are also directed to produce all relevant documents in support of their claim and also a copy of the representation, dated 28.3.2015. No costs. Consequently, connected WMP is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner and Secretary to,
The Government of Tamil Nadu,
Housing and Urban Development Department, UD-3,
St.George Fort, Chennai-600009.

2. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Malligai,
No.1, Gandhi Irwin Road, Chennai-600 008.

3. The Chairman,
Tamil Nadu Housing Board,
Nandanam,
Chennai-600 035.

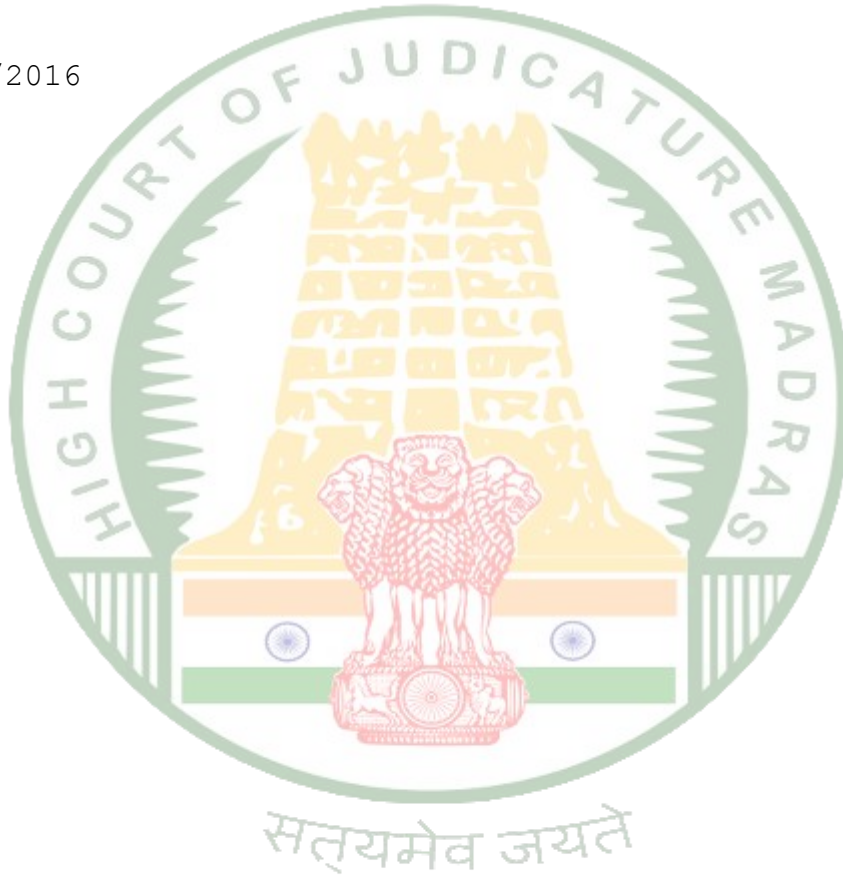
4. The Special Tashildar (L.Aq.),
Market Management Committee Building,
Koyambedu, Chennai-600 0092.

5. The District Revenue Officer,
Land Acquisition,
Chennai Metro Rail Limited,
Koyambedu, Chennai-600 092.

+1cc to Mr.K.M.Venugopal, Advocate sr.9194
+1cc to M/S.Aiyar & Dolia, Advocate Sr.9268
+1cc to the Government pleader Sr.9387
+1cc to B.Viveka vanan, Advocate Sr.9576

W.P.No.5255 of 2016

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srg 25/02/2016



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