



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MS. JUSTICE V.M.VELUMANI

W.A.(MD)No.54 of 2013

Chellamal ... Appellant

Vs.

1.The Commissioner of Town and Country Planning,
No.807, Anna Salai,
Chennai - 2.

2.The District Collector cum Chairman,
Tirunelveli Local Planning Authority,
Tirunelveli District.

3.The President,
Vadakkuvalliyoor Village,
Radhapuram Taluk,
Tirunelveli District

... Respondents

PRAYER: The Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order passed by this Court in W.P.(MD) No.8321 of 2010, dated 25.02.2011.

Prayer in WP(MD). 8321/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus or any other appropriate writ or order or direction in the nature of the Writ directing the Respondents to pay the compensation to the Petitioner for the said land or in the alternative allot some other lands in lieu of the acquired land in Survey Nos. 1673, 1674, 1693 etc., in Vadakkuvalliyoor Village, Radhapuram Taluk, Tirunelveli District in an extent of 0.67.0 hectares (1.65 Acres).

For Appellants : Mr.R.Venkatesan

For Respondents : Mr.A.K.Baskarapandian
(R1 and R2) Special Govt.Pleader



JUDGMENT

(Judgment of this Court was made by M.SATHYANARAYANAN, J.)

A perusal of the affidavit filed in support of W.P.(MD) No.8321 of 2010 would disclose among other things that the petitioner had purchased the lands in Survey No.1673, 1674, 1693 etc., in Vadakkuvalliyoor Village, Radhapuram Taluki, Tirunelveli District and the total extent of the land purchased by her is around 40 Acres. The petitioner applied for change of patta in her name and it was ordered by the revenue authorities and she claims to be in possession and enjoyment of the same.

2. The grievance expressed by the petitioner is that when she took steps to survey the land, some portion of the land have been encroached upon and included in Valliyoor - Radhapuram connecting road in Survey No.1693/1B and 1695/1B. The total extent is 1.67.0 Hectares (1.65 Acres). The petitioner would claim that before taking possession of the land, she was not at all put on notice and no compensation has also been paid to her and hence, came forward to file the Writ Petition.

3. In the interregnum, the petitioner died and one Chellammal claims to be her adopted daughter had filed O.S.No.366 of 2010 on the file of Court of Principal District Munsif, Tenkasi, against the Pitchaiammal and the defendant / writ petitioner had consented to the decree and accordingly, a consent decree was passed on 18.10.2010, declaring that the Chellammal is the adopted daughter of Pitchaiammal. After disposal of the Writ Petition, the writ petitioner viz., Pitchaiammal died and therefore, the appellant claims to her adopted daughter filed this Writ Appeal.

4. Mr.R.Venkatesan, the learned counsel appearing for the appellant / adopted daughter of the writ petitioner would contend that the petitioner is having documents to show that her mother had purchased the acquired properties in question and she was also issued with a patta and the authorities, while acquiring the land, have not taken into consideration of the said documents and without putting her mother on notice, they took possession of the land and also adding salt to the wound did not pay compensation also and therefore, she is constrained to file the Writ Appeal.

5. Mr.V.K.Baskarapandian, the learned Special Government Pleader appearing for the respondents 1 and 2 would submit that the lands in question have been acquired by the Tamil Nadu Highways and admittedly, they have not been arrayed as party. The learned counsel appearing for the 3rd respondent would submit that he has nothing to do with the acquisition proceedings and payment of compensation.



6. The Learned Judge, after going through the affidavit filed in support of the Writ Petition found that it is bereft of any material particulars and therefore, granted liberty to the petitioner to work out her remedy before the competent civil forum.

7. A perusal of the typed set of documents would disclose that the mother of the petitioner had purchased the lands in Survey Nos.1695/1, 1693/3 admeasuring to some extent of lands through sale deed dated 12.07.1984 and also issued with patta No.1062, dated 08.03.2010. Though the said documents have been filed in the typed set of documents, admittedly, no reference has been made in the affidavit of the writ petition.

8. It is to be pointed out at this juncture that the averments made in the affidavit filed in support of the writ petition should be supported by the documents in the typed set of documents and whatever documents, enclosed in the typed set of documents, reference to the same should reflect in the affidavit filed in support of the writ petition. But in the case on hand, it has not been done so. Therefore, the Learned Judge was right in observing that the affidavit filed in support of the Writ Petition, is bereft of any material particulars and therefore, dismissed the writ petition. Therefore, this court is of the view that the writ petition deserves dismissal and accordingly, dismissed. However, the petitioner is at liberty to approach the concerned authority, who said to have acquired the lands belonging to the mother of the petitioner, in the form of detailed representation, along with true copy of necessary documents, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the concerned authority, shall consider and dispose of the petitioner's representation, on merits and in accordance with law, within a further period of 12 weeks thereafter and communicate the decision taken, to the appellant. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(P&A)

/True copy/

Sub Assistant Registrar

To

1.The Commissioner of Town and Country Planning,
No.807, Anna Salai,
Chennai - 2.



2.The District Collector cum Chairman,
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Tirunelveli District.

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3.The President,
Vadakkuvalliyoor Village,
Radhapuram Taluk,
Tirunelveli District

+1cc to special Government Pleader SR.No.56656
+1cc to MR.R.Venkatesan, Advocate SR.No.56786

mpk

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W.A. (MD) No.54 of 2013
26.09.2016