

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.01.2017

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.111 of 2011 &
M.P.No.1 of 2011

P.Khaushika Boopathy

... Petitioner

Vs

1 THE SECRETARY TO GOVERNMENT
REVENUE DEPARTMENT,
ST. GEORGE FORT ,
CHENNAI- 9.

2 THE SECRETARY TO GOVERNMENT
HOUSING AND URBAN DEVELOPMENT DEPARTMENT ST.
GEORGE FORT CHENNAI-9.

3 THE SPECIAL COMMISSIONER
COMMISSIONER FOR LAND ADMINISTRATION
EZHILAGAM CHENNAI-5.

4 THE DISTRICT COLLECTOR
THIRUVALLUR DISTRICT THIRUVALLUR.

... Respondents

The writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the entire records in Ref.Rc.6237/2010/F3 dt.31.3.2010 passed by the 4th respondent and quash the same thereby directing the respondents to provide alternative Government Land to the petitioner.

For Petitioner :Mrs.K.Mohana for Mr.M.Udayakumar

For Respondents :Mr.S.Diwakar, Spl.G.P.

ORDER

It is the case of the petitioner that the lands comprised in S.Nos.550/1A, 550/1B, 551/1. 551/3, 554/4 and 554/5 totally measuring an extent of 15.59 acres, in Pammathukulam

Village, Thiruvallur District belongs to him. Out of the aforesaid land, an extent of 10.50 acres are said to be acquired in terms of the provisions of the Land Acquisition Act for the purpose of forming outer ring road. Though objections were raised by stating that vast extent of alternative suitable land is available in Survey No.556, Pammathukulam Village, Thiruvallur District which is classified as Government Poramboke land, the petitioner's land had been used for forming out ring road. It is further averred that in spite of the fact that the guide line value of the petitioner's property is higher than the aforesaid Government Poramboke land, the acquisition was made. Petitioner had also brought to the notice of the Special Tahsildar and to the District Collector regarding assignment of equal extent of Government Poramboke Land. However, after completion of acquisition proceedings, the Special Tahsildar turned down the request made by the petitioner as not feasible. Hence, the petitioner filed a writ petition before this Court in W.P.No.23839 of 2009 and the said writ petition was disposed of with a direction to consider his representation within a period of twelve weeks. Thereafter the present impugned order had been passed by the respondent. Aggrieved by the same, the petitioner has come up with the present writ petition.

2. According to the learned counsel for the petitioner, the fourth respondent rejected the claim made by the petitioner in S.No.556/2 by stating that the aforesaid land will also come under the alignment of ORR Project for an extent of 3.48.0 hectares which is classified as Dry Assessed Waste. Learned counsel for the petitioner also filed additional affidavit at the time of hearing and would state that pending writ petition, the Tahsildar, Ambattur has submitted a report to the fourth respondent on 31.12.2011 in its Proceedings No.549/11/B1/19/A/11 and the said report had also been forwarded to the District Collector for further course of action.

3. In the aforesaid letter, though the Tahsildar had recommended the case of the petitioner to the District Collector, till today no orders have been passed. Further it is submitted that in the impugned order, the fourth respondent has urged the claim to the petitioner for an extent of 3.48 hectares but in the present case for S.No.556/2, the total extent is 17.38.0 hectares hence, still remaining lands are available which were classified as dry assessed waste poramboke lands. Learned counsel for the petitioner would also state that since no orders had been passed on his representation, a direction may be issued to the fourth respondent to pass appropriate orders by taking into consideration the report submitted by the Tahsildar, Ambattur, Chennai.

4. Learned Special Government Pleader would also submit that at the time of filing of the writ petition, the impugned order has been passed by the fourth respondent by stating that there is no provision under the Act for providing alternative lands in view of the lands acquired from land owners and legally the petitioner cannot seek a remedy before this Court.

5. In reply to the contentions raised by the learned Special Government Pleader, learned counsel for the petitioner would urge that there is a provision under the Act for making alternative lands.

6. In the light of the submissions made by the learned counsel on either side, this court is inclined to direct the petitioner to make fresh representation to the third respondent, within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the District Collector is directed to consider the representation made by the petitioner on merits by taking into consideration the report submitted by the Tahsildar, Ambattur and pass appropriate orders in accordance with law as expeditiously as possible preferably, within a period of three months there from.

7. With the above observation, this writ petition is disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

- 1 THE SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT,
ST. GEORGE FORT ,
CHENNAI-9.
- 2 THE SECRETARY TO GOVERNMENT,
HOUSING AND URBAN DEVELOPMENT DEPARTMENT ST.
GEORGE FORT CHENNAI-9.

3 THE SPECIAL COMMISSIONER,
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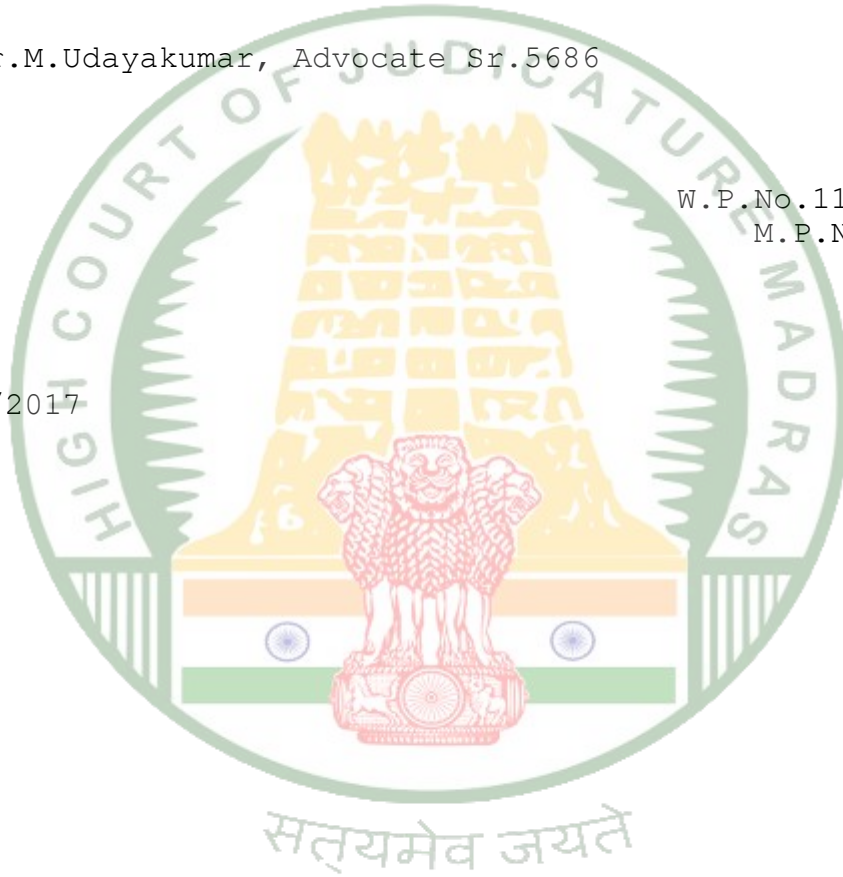
4 THE DISTRICT COLLECTOR,
THIRUVALLUR DISTRICT, THIRUVALLUR.

+1cc to the Government Pleader sr.6238

+1cc to Mr.M.Udayakumar, Advocate Sr.5686

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