



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 19.04.2017

CORAM

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P (MD) No.11071 of 2015

and

M.P (MD) No.1 of 2015

1.C.M.Salahudeen

2.S.Habilul Cadar Meera Sahib

(Second Petitioner is substituted in the place of deceased sole Petitioner by order of this Court made in W.M.P (MD) No. 374 of 2016, dated 03.11.2016)

..Petitioner

Vs

1. The District Collector,
District Collectorate Complex,
Kokirakulam, Palayamkottai,
Tirunelveli District.

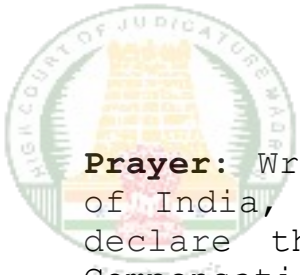
2. The District Revenue Officer,
Tirunelveli District,
District Collectorate Complex,
Kokirakulam, Palayamkottai,
Tirunelveli.

3. The Tahsildar,
Office of the Tahsildar,
District Collectorate Complex,
Kokirakulam, Palayamkottai,
Tirunelveli.

4. The Dean,
Tirunelveli Govt. Medical College and Hospital,
High Ground, Palayamkottai,
Tirunelveli.

5. The Executive Engineer (Buildings),
Public Works Department,
High Ground,
Palayamkottai,
Tirunelveli.

.. Respondents.



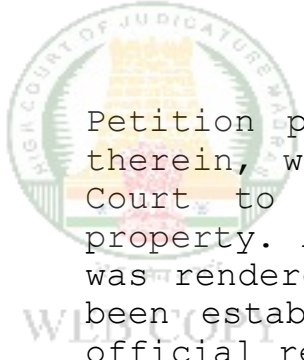
Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of declaration to declare that pursuant to Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013(Act 30 of 2013) and G.O.Ms.No.987, Health and Family Planning Department, dated 26.6.1968 the land acquisition proceedings of the respondents for Tirunelveli Medical College Project has lapsed in respect of the land in Old.S.No.6/1 measuring an extent of 92 cents, New T.S.No.210/2 situated in Palayamkkottai Taluk and Village and consequently to forbear the respondents from in any manner interfering with the peaceful possession of the Petitioner and his family members.

For Petitioner : Mr.J.Bharathan,
for M/s.S.Selvakumar
For Respondents : Mr.A.Muthukaruppan
Addl.Govt. Pleader

ORDER

The Petitioner has approached this Court seeking issuance of a Writ of declaration to declare that pursuant to Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013(Act 30 of 2013) and G.O.Ms.No.987, Health and Family Planning Department, dated 26.06.1968 the land acquisition proceedings of the respondents for Tirunelveli Medical College Project has lapsed in respect of the land in Old.S.No.6/1 measuring an extent of 92 cents, New T.S.No.210/2 situated in Palayamkkottai Taluk and Village and consequently to forbear the respondents from in any manner interfering with the peaceful possession of the Petitioner and his family members.

2.According to the Petitioner, he is the absolute owner of the subject-property and the said property has not been subject to any acquisition proceedings earlier. But the said fact has been stoutly denied by the learned Additional Government Pleader appearing for the official respondents. In fact, it appears from the documents made available that the same Writ Petitioner has approached this Court in W.P.No.1912 of 2010 seeking issuance of a Writ of Mandamus forbearing the respondents 1 to 4 therein from interfering with the Petitioner's peaceful possession and enjoyment of the land measuring an extent of 92 cents situated in S.No.223/1, Palayamkkottai Circle, Vijayaraghava Mudaliar Chatram Village and Town Resurvey No.210, Ward BS, Block I. In the present Writ Petition, in spite of Mandamus, declaration has been sought for the same property of the same property which was the subject-matter property of the above Writ petition. This Court in the said Writ



Petition passed an order on 18.11.2010 directing the Petitioner therein, who is also the Petitioner herein to approach the Civil Court to establish his ownership and title of the subject-property. A detailed order was passed by this Court and a finding was rendered that the title and ownership of the property has not been established and the same has been strongly denied by the official respondents.

3.While the matter stood thus, the same Petitioner has approached this Court for declaratory relief in respect of the same property, which has been strongly and stoutly refuted by the official respondents. In view of the disputed questions of fact as between the parties, this Court cannot render any finding by exercising its extraordinary jurisdiction under Article 226 of the Constitution of India. In the said circumstances, the said Writ Petition is not maintainable and it is open to the writ Petitioner to approach the Civil Court, in order to establish his right in respect of the subject-property as against the official respondents.

4.In the circumstances, the Writ Petition is dismissed as not maintainable. Consequently, connected Miscellaneous Petition is dismissed. No costs.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
District Collectorate Complex,
Kokirakulam, Palayamkottai,
Tirunelveli District.
2. The District Revenue Officer,
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District Collectorate Complex,
Kokirakulam, Palayamkottai,
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3. The Tahsildar,
Office of the Tahsildar,
District Collectorate Complex,
Palayamkottai,
Tirunelveli.



4. The Dean,
Tirunelveli Govt. Medical College and Hospital,
High Ground, Palayamkkottai,
Tirunelveli.

5. The Executive Engineer (Buildings),
Public Works Department,
High Ground,
Palayamkkottai,
Tirunelveli.

+ 1 CC TO Mr.S.SELVAKUMAR, ADVOCATE IN SR No. 53382
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 52835

VSN

TE/MMS : 05/05/2017 : 4P/8C

W.P (MD) No.11071 of 2015 and
M.P (MD) No.1 of 2015

19.04.2017