



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

WEB COPY

**W.P (MD) No.4039 of 2015 and
WMP (MD) Nos. 1 and 2 of 2015**

N.Alagumalai

... Petitioner

Vs.

1. The District Revenue Divisional Officer,
Madurai District.
2. The Revenue Divisional Officer,
Madurai Division,
Madurai - 625 020.
3. The Executive Engineer and Administrative Officer,
Tamilnadu Housing Board,
Ellisnagar, Madurai - 20.
4. The Special Tahsildar (Land Acquisition),
Housing Board Scheme,
Collector's Office Campus,
Madurai - 20.
5. The Tahsildar,
Madurai South,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to impugned orders of the first respondent herein in Proceedings No. 18427/ 2013/ G5 dated 04.04.2013 and quash the same as illegal and consequently direct the 3rd respondent from threatening the peaceful possession and enjoyment of the lands lying in an extent of 1.64 acres of lands comprising in S.Nos. 42/ 3 and 4 (corresponding to old S.No. 42/ 2A5B1B1) of Thoppur Village, Madurai South Taluk.

For Petitioner : Mr.K.Chellapandian, Senior Counsel
for Mr.K.Bhaskaran

For Respondents : Mr.J.Gunaseelan Muthiah,
1, 2, 4 & 5 Government Advocate

**ORDER**

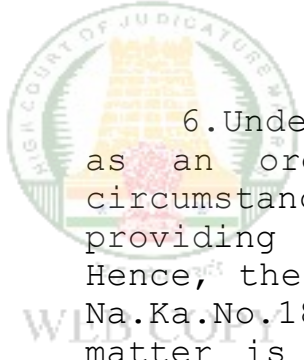
This writ petition has been filed, seeking a Writ of Certiorarified Mandamus, to quash the proceedings of the first respondent in Na.Ka.No. 18427/ 2013/ G5, dated 04.04.2013 and consequently direct the third respondent, from threatening the peaceful possession and enjoyment of the lands lying in an extent of 1.64 acres of lands comprising in S.Nos. 42/ 3 and 4 (corresponding to old S.No. 42/ 2A5B1B1) of Thoppur Village, Madurai South Taluk.

2. Heard both sides.

3. The learned counsel for the petitioner submitted that the petitioner owns the lands in dispute. In the year 1988, some lands were acquired by the Tamil Nadu Housing Board and compensation towards the same was awarded. However, the petitioner's lands were not mentioned either in the notification published in the Gazette dated 16.10.1986 or in the award. While so, the first respondent without having any authority, has changed the registers, as if the petitioner's lands were also acquired as early as in the year 1988. Hence, the petitioner, submitted a representation on 25.02.2013, to the District Collector, in that regard. However, the first respondent, without issuing any notice or affording any opportunity of personal hearing to the petitioner, passed the order, in Roc.No. 51/86/A, dated 11.03.2013, that the lands in S.Nos. 42/ 3 and 4 were acquired in the year 1988. In the meanwhile, WP (MD) No.4029 of 2013 and WP(MD)No.5808 of 2013, came to be filed, wherein, this Court, by order dated 21.03.2013 and 10.04.2013 directed to maintain *status quo*. Subsequent thereto, the first respondent has passed the impugned proceedings in Roc.No.18427/2013/G5, dated 04.04.2013, as if, it was passed before issuing the order of *status quo*. Aggrieved over the same, the petitioner is before this Court, seeking to quash the impugned order.

4. Though several grounds were raised in the writ petition, the main contention of the petitioner is that without affording any opportunity of hearing as well as without considering the claim of the petitioner, the impugned order came to be passed, declaring that the alleged acquisition was said to have been completed by the authorities long back.

5. Further, the learned Senior Counsel appearing for the petitioner, has brought to the notice of this Court, a vital document of the year 2012, which is found at page No.60 of the typed set of papers, wherein, it has been so specifically mentioned that no such land acquisition proceedings, relating to the Survey Nos 42/3 and 42/4, which according to the petitioner is belonging to him, were initiated by the authorities. But, strangely, at page No.7 of the impugned order, referring to the survey numbers, it has been observed by the authority that no objection was raised by the petitioner, despite the fact that the petitioner made several objections to that extent.



6. Under such circumstances, the impugned order can be termed as an order passed without consideration of the facts and circumstances, relating to the said claim and that too without providing an adequate opportunity of hearing to the petitioner. Hence, the impugned proceedings passed by the first respondent in Na.Ka.No.18427/ 2013/ G5 dated 04.04.2013, is set aside and the matter is remitted back to the first respondent, who is hereby directed to consider the matter afresh and pass appropriate orders on merits and in accordance with law, after affording due opportunity of hearing to the petitioner as well as all the interested parties, within a period of twelve weeks, from the date of receipt of a copy of this order.

7. The writ petitioner is allowed on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The District Revenue Divisional Officer,
Madurai District.
2. The Revenue Divisional Officer,
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3. The Executive Engineer and Administrative Officer,
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Housing Board Scheme,
Collector's Office Campus,
Madurai - 20.
5. The Tahsildar,
Madurai South, Madurai.

+ 1 cc TO Mr.K.Bhaskaran , Advocate in SR No. 92777

+ 1 cc TO The Special Government Pleader in SR No. 93117

dsk

AE/JC/SAR4/05.01.2018/3P/8C