

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.02.2018

Coram: The Honourable Mr. Justice N. SESHASAYEE

W.P.No.9483 of 1986

1. K. Kailasam-Deceased
2. Mrs. K. Rajamani
3. Mrs. K. Dhanalakshmi
4. Mrs. K. Rani

(P2 to P4 are substituted as LRS of Deceased P1 K. Kailasam, as per order dated 20.10.2017 by MSRJ in W.P.M.P.No.58 of 2015 in W.P.No.9483 of 1986)

...Petitioners

Versus

1. The State of Tamil Nadu,
represented by Commissioner and Secretary to
Government, Housing and Urban Development,
Fort. St. George, Madras-9.
2. The Special Tahsildhar (Land Acquisition),
Neighbourhood Scheme, Namakkal,
Salem District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records of the respondents connected with the G.O.Ms.No.189 Housing and Urban Development dated 10.03.1984 and quash the same in so far as the petitioners land in T.S.Nos.6/2 and 6/6 in Ayyamperumalpatti Village, of an extent of A.c.2.11 is concerned.

For Petitioners: Mr. V. Sekar

For Respondents: Mr. M. Karthikeyan,
Additional Government Pleader

O R D E R

The petitioners have challenged the Land Acquisition proceedings initiated under the Land Acquisition Act, 1894, on various grounds which includes that a Notification under Section 3(1) of the Land Acquisition Act has not preceded the issuance of a Notification under Section 4(1) of the Land Acquisition Act and that adequate opportunity has not been extended to the petitioners in Section 5A.

2. Ms.V.Vallidevi, Special Tahsildhar (Land Acquisition), Neighbourhood Scheme, Salem - 8 is present along with the necessary files to assist the Court and the same is recorded.

3. Mr.M.Karthikeyan, the learned Additional Government Pleader appearing for the respondents submitted that he has made available the files pertaining to acquisition for the perusal of this Court, as per which the petitioners have indeed participated in an enquiry under Section 5A of the Land Acquisition Act. The learned Additional Government Pleader however said that in this case, petitioners have obtained an interim order of stay because of which the Land Acquisition Authority could not take possession of the property and added that barring the same, the rest of the procedures have been complied with.

4. Responding to the same, the learned counsel for the petitioners also brought to the notice of this Court that the judgment of the Honourable Supreme Court in SLP(C) D No.2054 of 2017 reported in Online Journal, wherein, the Honourable Supreme Court has held, for relying on the judgment of the Supreme Court in the case of Sree Balaji Nagar Residential Association Vs. State of Tamil Nadu (2014 (10) SCALE 388) that the operation of interim order of stay restraining the authorities from taking possession of the property is not exempted for considering the application of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 (Central Act 30 of 2013) and the petitioners can still obtain necessary remedies under Section 24 (2) of the said Act.

5. In view of this development, the learned counsel for the petitioners seeks a leave of the Court to withdraw the present petition with liberty to file a fresh Writ Petition invoking to Section 24(2) of the Act. He has also made necessary endorsement to this effect. The petitioners are accordingly granted leave to withdraw the petition and also accorded further leave to file such proceedings as may be available to them under law. However, in view of the present Order of the Honourable Supreme Court in SLP(C) D 2054/2017 (IV-B) in the case of State of Haryana and Ors. Vs. M/s. G.D.Goenka Tourism Corporation Limited and Anr., dated 21.02.2018, the respondents are directed not to disturb the petitioners' present possession for a further period of two months from today(22.02.2018). Therefore this Writ Petition is disposed of accordingly. No costs.

sd/-

Assistant Registrar(CS II)

//True copy//

Sub Assistant Registrar

mrr

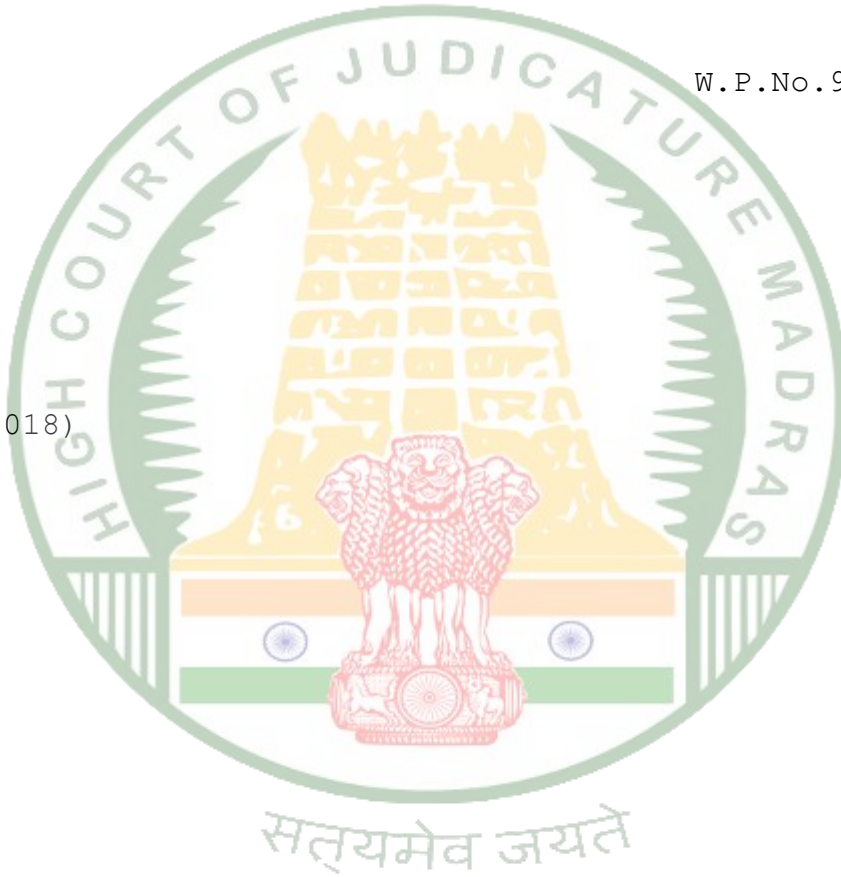
To

1. The Commissioner and Secretary to
Government, Housing and Urban Development,
Fort. St. George, Madras-9.
2. The Special Tahsildhar (Land Acquisition),
Neighbourhood Scheme, Namakkal,
Salem District.

+lcc to Mr.V.Sekar, Advocate SR.No.13761

W.P.No.9483 of 1986

KAN (CO)
GN (06/03/2018)



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