IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.10.2018
CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

W.P. 13748 of 2016
&
W.M.P.s 12044 to 12045 of 2016

1. W.M.M.Uvais
2. W.S.H.Magdoom Mohamed
3. W.M.M.Mubarak
4. A.H.Hawwa Ummal
5. W.M.Nafeesa
6. W.U.Nafeesa
7. W.U.Magdoom Mohamed
8. W.S.Magudoom Mohamed
9. S.H.Magdoom Mohamed
10. S.H.Abdul Ghaffar Rilwan
11. S.H.Abdul Hassan Late
12. W.M.M.Mahmood Asia
13. W.M.M.Shaik Fathima
14. W.M.M.Shamsudeen
15. W.M.M.Nafeesa Thahira
16. W.M.M.Magdoom Mohamed
17. M.I.Ummu Habeeba
18. W.M.A.S.Zeenath Munawara
19. W.M.S.Kurath
20. S.H.Syed Asia
21. W.M.Nafeesa
22. W.M.Wajeeha Rumaiza
23. N.S.Syed Nafeesa
24. W.S.A.R.Katheejathul Fathima
25. W.M.M.Mohuthazeem
26. W.M.A.S.Shahul Hameed
27. W.M.Ayesha Zulfa
28. M.I.Fathimath Zohara
29. W.S.H.Nafeesathu Misriya .. Petitioners

-Versus-

1. The Land Acquisition Officer and
   Special Tahsildar,
   Land Acquisition,
   Chennai Metro Rail Limited,
   Koyambedu,
   Chennai-600 107.

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2. The Tamil Nadu Housing Board,
rep. by its Chairman cum Managing Director,
493, Anna Salai, Nandanam,
Chennai.

3. Chennai Metro Rail Limitted,
rep. by its Chairman cum Managing Director,
Poonamallee High Road,
Koyambedu,
Chennai-600 107. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Award of the respondent in No.13/2011-12 dated 12.01.2012, quash the same in so far as it relates to the T.S.No.2, Part, New No.2/2, Periyakoodal Village, Egmore-Nungambakkam Taluk, Chennai and further direct the respondent to disburse the compensation amount of Rs.17,84,805/- to the petitioners in accordance with the proportion of their ownership.

For Petitioner : Mr.V.Anand

For Respondents : Mr.D.Raja,
Addl. Government Pleader for R1

: Mr.B.Vivekanandan for R2

: Mr.Jayesh B.Dolia for R3
for M/s.Aiyar and Dolia

ORDER

This writ petition has been filed seeking to quash the award passed by the respondents herein.

2. The grievance of the petitioners is that, they are the owners of the property at Block No.13, T.S.No.2, Periyakoodal Village, Egmore-Nungambakkam Taluk, Chennai District to an extent of 6250 sq.ft. Each of the petitioners are entitled to a small share therein and they have purchased the above property under various registered Sale deeds. Out of total extent of 581 sq.mtrs., a small extent of 204.514 sq.ft. was sought to be acquired by the respondents and they have also passed an award, awarding compensation of Rs.17,84,805/-.

3. According to the petitioners, an award has been passed without any enquiry whatsoever and without issuing notice to

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the petitioners. Subsequently, the petitioners also came to know that the award has been referred under Sec.30 and 31 of the Land Acquisition Act (hereinafter called as 'Act') in L.A.O.P.No.6 of 2013, and the same is pending on the file of VI Asst City Civil Court, Chennai. Now, the petitioners have come forward to challenge the award by filing the present Writ Petition. Subsequently, the petitioners have also filed a petitions to implead the Tamil Nadu Housing Board and Chennai Metro Rail Limited as party respondents.

4. The 1st respondent has filed a counter affidavit stating that the said land was acquired for implementing Metro Rail project after following all the mandatory procedures, and as per the revenue records, the land stands in the name of Tamil Nadu Housing Board and notice was issued to them under Sec. 9 (3), and 10, of the Act, but the Housing Board did not turn up for enquiry. Since neither the Housing Board nor any other interested persons turn up for enquiry, the award was passed and after passing the award, the award has been referred under Sec.30 and 31 of the Act, and it was also numbered in L.A.O.P.No. 6 of 2013. Thereafter, due to non-representation of the claimants, the reference court has decided to close the enquiry on 24.08.2016. Now, the award amount is still in the court deposit.

5. The 2nd respondent Housing Board has filed a counter affidavit stating that the land in dispute was originally acquired by the Tamil Nadu Housing Board under the West Madras Neighbourhood Scheme in the year 1963. Thereafter, Housing Board has obtained layout approval and sold the house sites to various general public. So far as the disputed property is concerned, originally, the land was alloted to one P.Maruthai Pillai, son of Perumal Pillai, and the land was also handed over to Maruthai Pillai, and he was the absolute owner of the above said property. The Housing Board does not have any right over the property, which is the subject matter of this Writ Petition.

6. The 3rd respondent has filed a counter affidavit stating that as per the revenue records, it is found that the Housing Board alone was mentioned as a owner. Hence, a notice was issued to the Housing Board. But, the Housing Board did not turn up for enquiry and hence, the matter was referred under Sec.30 and 31 of the Act. Even in the permanent land records, the name of Housing Board alone is found place and the name of Maruthai Pillai was mentioned as an enjoyer of the property. Neither the Housing Board nor the said Maruthai Pillai turn up for hearing. Hence, the award amount has been deposited in VI

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Asst. City Civil Court, Chennai.

7. The learned counsel appearing for the petitioners would submit that even though the land was originally allotted to Maruthai Pillai, subsequently, the land was sold to one Sharma and from him, the petitioners have purchased the property for a valid consideration through a valid registered sale deed. However, without issuing any notice to them, the award has been passed. The learned counsel appearing for the petitioners would further submit that the reference court also now closed the reference for non-appearance of the parties. Hence, the petitioners having no other remedy except to challenge the award proceedings before this Court.

8. The learned counsel appearing for the respondents would submit that as per the revenue records, only the name of Housing Board has been found place, the notice was issued to the Housing Board. But, the Housing Board did not turn up for award enquiry, and subsequently, it was referred. Now, the entire amount was kept in the deposit of VI Asst. City Civil Court, Chennai.

9. I have considered the rival submissions and perused the materials available on records carefully.

10. The claim of the petitioners is that they have purchased the lands in the year 2007, but no mutation has been taken place in the revenue records, and the revenue records stand in the name of Housing Board. In the said circumstances, the authorities, having no other option except to go by the revenue records, and issued the notice to the Housing Board. Subsequently, the award has been passed. Now, the matter has been referred under Sec.30 and 31 of the Act, which was numbered as L.A.O.P.No.6 of 2013 and it is pending on the file of VI Asst. City Civil Court, Chennai. Now, it is represented that the reference was also closed on 24.08.2016 on the ground that none appeared for making their claim before the court. In the said circumstances, now, the petitioners come forward to claim right over the property. If the petitioner has a valid title over the property in dispute, it is always open to the petitioners to approach the concerned reference court and file a petition to re-open the L.A.O.P. and produce the materials to establish their title and get the compensation. Without doing so, the petitioners cannot challenge the award by filing the present Writ Petition.

11. Considering the above facts and circumstances, the petitioners are directed to file necessary application before the VI Asst. City Civil Court, Chennai to reopen the L.A.O.P.No.6 of 2013, which was closed on 24.08.2016 and on

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filing such application, the learned VI Asst. City Civil Judge, Chennai is directed to reopen the L.A.O.P.No.6 of 2013, and conduct enquiry as on the reference and pass suitable orders on merits and in accordance with law.

12. With the aforesaid observation, this Writ Petition is disposed of. No costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

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Special Tahsildar,
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Koyambedu, Chennai-600 107.

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493, Anna Salai, Nandanam,
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3. Chennai Metro Rail Limitted,
rep. by its Chairman cum Managing Director,
Poonamallee High Road,
Koyambedu, Chennai-600 107.

4.The VI Asst City Civil Court Judge, Chennai.

+1cc to Mr.V.Anand , Advocate SR.No. 72961
+1cc to Mr.B.Vivekanandan , Advocate SR.No. 73232
+1cc to Mr. Jayesh B.Dolia , Advocate SR.No. 72961

W.P. 13748 of 2016
and
W.M.P. 12044 & 12045 of 2016

ASK(26/11/2018)

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