

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2018

CORAM

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P. 4146 of 2018

M/s. Binny Limited,
rep. by Managing Director

... Petitioner

Vs

1. The Chief Commercial Manager,
Southern Railway,
Chennai-600 003.
2. The Divisional Manager,
Southern Railway, Divisional Office,
George Town,
Chennai-600 003.
3. The Senior Divisional Engineer
(Co-ordination),
Southern Railway,
Chennai Division,
Chennai-600 003.
4. The Divisional Engineer (Central),
Southern Railway,
Chennai Division,
Chennai-600 003.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to reconvey the land measuring about 2.16 acres in Survey No.250/3, Perambur Village and Taluk, Chennai.

For Petitioner : Mr.Ramesh
for Mr.T.Thiyagarajan

For Respondents : Mr.P.T.Ramkumar for R1 & R2

O R D E R

This Writ Petition has been filed seeking for a direction directing the respondents to reconvey the land measuring about

2.16 acres in Survey No.250/3, Perambur Village and Taluk, Chennai.

2. According to the petitioner, in the year 1905, the Carnatic Mill Company, which is now changed as M/s.Binny Limited entered into an agreement with the respondent Southern Railway for providing siding facilities from Perambur Railway station. The siding line was laid at the cost of the petitioner in the petitioner's private land for a specific purpose of transporting coal, cotton bales and finished goods through railway wagon. Subsequently, the manufacturing in the company was stopped and earlier Memorandum of Agreement dated 17.12.1987 was determined and terminated. The operation of the siding line by the petitioner and the respondent are completely stopped vide their letter dated 11.06.2010. After June 2010, the land in Survey No.250/3 measuring about 2 acres used for siding line has ceased to serve its purpose and the railway line has been removed completely. Now, the said land in which siding lines are provided within the petitioner premises was divided into two hampering the petitioner's convenient enjoyment of the entire extent of land. In the said circumstances, the petitioner has sent a representation to reconvey the land belong to the petitioner. But, so far no action was taken by the respondents. Hence, the present Writ Petition has been filed by the petitioner.

3. The respondents 1 and 2 have filed their counter affidavit stating that the erstwhile Carnatic Mills at Perambur requested the Railway Administration for construction of siding facility to their mill premises and an agreement was also entered into between them on 25.08.1905. As per the agreement, the land required for siding outside the railway boundaries will be acquired by the Government under the Land Acquisition Act. The land so acquired will vest absolutely in Government and the applicant have no right and claim thereto. The Railway Board also approved the work on a total estimate of Rs.30,703/-, out of which a sum of Rs.11,868/- will be borne by the Carnatic Mills company and the balance of Rs.20,547/- borne by the Railways.

4. Subsequently, another agreement was executed between the Divisional Railway Manager at Madras and the petitioner on 17.12.1987 and as per the agreement, the lands, which are acquired only belong to the Railways and the applicant has no right, title or claim thereto. Thereafter, the siding facility provided to the petitioner was closed by proceedings dated 11.06.2010 and the agreement dated 17.12.1987 was also determined only due to the stoppage of textile business by the petitioner, but it was not terminated by the railways. In the said circumstances, the petitioner is not entitled for

reconveyance of the land. Apart from that, only the Assistant Divisional Railway Manager/Estate Officer having control over the management and utilisation of Railway land. But, the petitioner has so far not approached the competent authority seeking for the relief of reconveyance.

5. I have heard the counsel for petitioner and the respondent and perused the records carefully.

6. It is an admitted fact that the siding facility has been provided to the petitioner and the railway authority has entered into an agreement with the petitioner. Subsequently, the facilities provided to the petitioner was stopped from 11.06.2010 and the earlier agreement was also terminated. Now, it is stated by the petitioner that the railway line is also removed and the entire land, which are acquired for providing siding line is now lies in between the petitioner's property. Since the siding facility is no more in use, the petitioner has applied for reconveyance of the land as the land is no more required for the Railways. The learned counsel for the respondents contended that as per the agreement entered into between the parties, the petitioner is not entitled for reconveyance. Apart from that, the petitioner also did not approach the competent authority for the redressal of his grievance.

7. The petitioner sought for reconveyance of the property from the Railway department and the competent authority to consider his request is Assistant Divisional Manager/Estate Officer of the Railways. But, the petitioner so far has not approached the competent authority for redressal of his grievance. In these circumstances, without going to the merits of the case, I am of the view, at this stage, it is suffice to direct the petitioner to approach the Assistant Divisional Manager/Estate Officer of the Railways and to make necessary application seeking for reconveyance of land within a period of two weeks from the date of receipt of the copy of this order, and if any such request is made by the petitioner, the Assistant Divisional Manager/Estate Officer is directed to consider the same on merits and in accordance with law after giving reasonable opportunity to the petitioner and also considering the other relevant materials and pass suitable orders within a period of six weeks thereafter.

8. With the above direction, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Commercial Manager,
Southern Railway, Chennai-600 003.
 2. The Divisional Manager,
Southern Railway,
Divisional Office, George Town,
Chennai-600 003.
 3. The Senior Divisional Engineer
(Co-ordination), Southern Railway,
Chennai Division, Chennai-600 003.
 4. The Divisional Engineer (Central),
Southern Railway,
Chennai Division,
Chennai-600 003.
- +1cc to Mr.P.T.Ramkumar, Advocate Sr.No.66785

SS(CO)
CSL/12.11.2018

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