

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.19810 of 2005

and

W.P.M.P.No.21533 of 2005, 523 of 2011 & 377 of 2012

1.V.Sampath(Deceased)

2.Tmt.S.Chandra

3.S.Venkatesh

4.Smt.S.Anita

5.S.Anand

(P2 to P5 are substituted as Lrs of deceased(P1-V.Sampath) as per order dated 19.12.2018 in W.M.P.No.39539/2018) ..Petitioners

vs

1.The District Collector,
Thiruvallur District,
Thiruvallur.

2.The Tahsildar(L.Acq)
Siruvanoor Town Panchayat
Poondi Panchayat Union
Thiruvallur District.

3.Shree Niketon Patasala CBSE School
Rep.by its Correspondent
P.Vishnu Charan
No.12, 'F' Block
2nd Main Road, Anna Nagar(East)
Chennai - 600 102.

(R3-impleaded as per order dated 05.03.2012
in W.M.P.No.72/12 in W.P.No.19810/2005)

4.S.Nigala Devi
No.7/23, Pillaiyar Koil Street,
T.Nagar, Chennai - 600 017

(R4-Impleaded as per order dated 16.07.2012
in W.P.M.P.No.112/12 in W.P.No.19810/2005) ..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents from in any manner disturbing the peaceful possession, enjoyment of the Government approved layout situated in Survey Nos.107/1 to 107/6,

108/3 to 108/10, 120/1B, 121/1A1, 121/1A2, 122/2A, 122/5 in Vedanginallur Village, Siruvanoor Town Panchayat totally admeasuring 29.94 acres, by alleged threat of acquisition, except by due process of law and pass such further or other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

For Petitioners : Mr.G.Sankaran

For Respondents: Mr.Akhil Akbar Ali, GA for R1 & R2

Mr.S.Ramesh for R3

M/s.Lakshmikumaran for R4

O R D E R

The relief sought for in the present writ petition is to forbear the respondents from in any manner disturbing the peaceful possession, enjoyment of the Government approved layout situated in Survey Nos.107/1 to 107/6, 108/3 to 108/10, 120/1B, 121/1A1, 121/1A2, 122/2A, 122/5 in Vedanginallur Village, Siruvanoor Town Panchayat totally admeasuring 29.94 acres, by alleged threat of acquisition, except by due process of law.

2.The petitioner states that the alleged acquisition is without any due notice or hearing and the respondents are proposing to acquire the land belongs to the writ petitioners. Though the petitioner narrates various facts in relation to the nature of the property and the applications submitted by him before the Director of Town Planning for formation of layout during the year 1989, the writ petitioner has not challenged any acquisition proceedings, if any initiated by the respondents. In the absence of initiation of any Land Acquisition proceedings under the provisions of the Land Acquisition Act, the present writ petition is to be construed as if there is no cause of action. If at all any Land Acquisition proceedings are initiated, it is left open to the writ petitioner to question the Land Acquisition in the manner known to law. Contrarily, mere apprehension or the enquiry if any conducted, will not constitute any cause of action for the purpose of filing the present writ petition. Even, the prayer in the writ petition is to forbear the respondents from in any manner disturbing the peaceful possession, enjoyment of the Government approved layout formed by the writ petitioner based on the alleged threat of acquisition. Such an alleged threat of acquisition cannot be a ground for interference by this Court.

3.Now after the Constitutional amendment, property right is no more a fundamental right. Acquisition of land by the State/Union for the public welfare for implementation of public schemes are permissible by following the procedures as contemplated under the Land

Acquisition Laws. Thus, the power of the State/Union cannot be curtailed by this Court by granting such an injunction as such sought for in the present writ petition. If at all any proceedings are initiated for Land Acquisition and if there is any violation of law or irregularity, then alone the petitioner is at liberty to approach the competent Court of law for the redressal of his grievances.

4.This being the factum of the case, the writ petitioner has not established any cause for the purpose of considering the relief as such sought for in the present writ petition.

5.Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS iv)

//True Copy//

Sub Assistant Registrar

kak

To

1.The District Collector,
Thiruvallur District,
Thiruvallur.

2.The Tahsildar(L.Acq)
Siruvanoor Town Panchayat
Poondi Panchayat Union
Thiruvallur District.

+1 CC TO GOVERNMENT PLEADER SR.NO. 86503

+1cc to Mr.G.Sankaran , Advocate SR.No. 88733

W.P.No.19810 of 2005

A.SK(30/01/2019)

WEB COPY