

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Delivered on
24.07.2018	26.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.1592/2018 & CMP No.12795/18,

W.A.No.1593/2018 & CMP Nos.12796 & 12797/18

W.A.No.1594/2018 & CMP Nos.12798 & 12799/18

Dr.V.Kalanidhi ... Appellant in all the Appeals

versus

1. The State of Tamil Nadu,
Rep. By its Principal Secretary to Govt.,
Planning, Development and Special
Initiatives Department,
Fort St. George, Secretariat,
Chennai 600 009.
2. The Commissioner of Land Administration
Chepauk, Chennai,
Ezhilagam, Chepauk,
Chennai 600 005.
3. The Chennai Metro Rail Limited,
Rep. By its Managing Director,
Administrative Office Building,
CMRL Depot, Poonamallee High Road,
Koyambedu, Chennai 600 107.
4. The District Collector,
Chennai District,
No.62 Rajaji Salai,
Chennai 600 001.

5. The Tahsildar,
Egmore - Nungambakkam Taluk,
No.88, Spur Tank Road,
Mayor Ramanathan Street,
Chetpet, Chennai 600 031.
6. The Coporation of Cehnnai
Rep. By its Commissioner,
Rippon Building,
Park Town, Chennai 600 003.
7. The Ministry of Urban Development
Rep by its Secretary to Government,
Union of India,
Room No.308-C, Nirman Bhavan
New Delhi 110 108. Respondents in all the Appeals

Appeals filed against the order passed by this Court dated 17.07.2018 passed in W.M.P. No.7681, 7682 and 7683 of 2017 in W.P.No.7051 of 2017 respectively.

Petitions praying that in these circumstances stated therein and in the respective affidavits filed therewith the High Court will be pleased to

(i) Grant an order of ad interim injunction, restraining the respondents, their men, agents, staff or any other person claiming through or on behalf of them from in any way interfering with the petitioner peaceful possession and enjoyment of the petitioner property comprised in S.Nos.10, 11 and 147 Part Block No.28, Koyambedu Village, Egmore-Nungambakkam Taluk, Chennai District, (in WMP.No.7681/2017 in WP.No.7051/2017);

(ii) Grant an order of ad interim stay of the operation of the impugned G.O.Ms.No.139, dated 27.8.2010, (in WMP.No.7682/2017 in WP.No.7051/2017);

(iii) Grant an order of ad interim direction, directing the 3rd respondent to forthwith de-seal the car park of the petitioner hospital comprised in T.S. No.147 Part Block No.28. Koyambedu Village, Egmore-Nungambakkam Taluk, Chennai District, (in WMP.No.7683/2017 in WP.No.7051/2017);

Petition Under Article 226 of the Constitution of India praying that in the circumstances stated therein, and in the affidavit filed therewith the high court will be pleased to issue writ of order or direction in the nature of Writ of Certiorarified Mandamus Calling for the records of the 1st respondent pertaining to G.O.Ms. No.139, Planning Development

and Special Initiatives Department, dated 27.8.2010 and quash the same and consequently forbear the respondents, their men, agents, staff or any other person claiming through or on behalf of them from in any way interfering with the petitioner's peaceful possession and enjoyment of the petitioner's property comprised in S.Nos.10, 11 and 147 Part Block No.28, Koyambedu Village, Egmore-Nungambakkam Taluk, Chennai District and further direct the 3rd respondent to forthwith de-seal the car park of the petitioner's hospital comprised in T.S. No.147 Part Block No.28. Koyambedu Village, Egmore-Nungambakkam Taluk, Chennai District (in WP.7051 OF 2017) respectively.

For appellant : Mr.Mr.Richardson Wilson

For Respondents: Mr.A.Thiyagarajan, Senior Counsel
M/s.Jayesh Dolia for R3

Mr.V.Anandhamoorthy,
Additional government Pleader
for RR 1, 2, 4 & 5

C O M M O N J U D G M E N T

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

The challenge in these intra Court Appeals is to the interim order of the learned Single Judge dated 17.07.2018 made in WMP Nos.7681 to 7683 of 2017 in WP Nos.7051 & 7052 of 2017, in and by which, the interim order of status quo was vacated while leaving open the question as to whether the appellant would be entitled to compensation for acquisition of the land and building in question. The appellant filed WP No.7051 of 2017, questioning the Government order dated 27.08.2010 in G.O.Ms.No.139, in and by which, the Government had permitted the Chennai Metro Rail Limited to enter upon the land with immediate effect for implementation of the Metro Rail project.

2. The appellant would claim that the lands covered by the said Government order which are classified as Grama Natham belong to him and the Government has also recognised his possession by issuing Patta. Therefore, according to him the Government had no authority to transfer the said lands to the Chennai Metro Rail Limited. The appellant also sought for an injunction restraining the respondents from interfering with his possession of the land comprised Survey Nos.10, 11 and 147 part in Block No.28 of Koyambedu Village Egmore-Nungambakkam Taluk, Chennai District, pending disposal of the above Writ Petition, in WMP No.7681 of 2017. Stay of operation of the impugned G.O.Ms. No.139 dated 27.08.2010 was also sought for in WMP No.7682 of 2017.

3. Claiming that the 3rd respondent, viz. Chennai Metro Rail Limited had sealed the car park of the petitioner's / Appellant's hospital situate in T.S.No.147 part, Block No.28 Koyambedu Village, an interim direction to de-seal the Car park who prayed for in WMP No.7683 of 2017.

4. In WP No.7052 of 2017 the appellant challenged the order of the 3rd respondent refusing to pay the compensation for the lands, which were already taken over by the Chennai Metro Rail Limited. While admitting the Writ Petitions, this court had granted an order of status quo.

5. The respondents filed a counter affidavit and sought for vacation of the orders of the status quo. The primary contention of the appellant before the Writ Court was that the land in question having been classified as Gramanatham did not belong to the Government and therefore, the Government had no power to transfer the same to the Chennai Metro Rail Limited, under the impugned the Government Order, namely G.O. Ms. No.139 dated 27.08.2010.

6. Per contra, the respondents would contend that though the land was originally classified as Gramanatham since the appellant had used for a Commercial purpose is not entitled to retain the land.

7. Both sides relied upon various Judgments of the Division Benches of this Court in support of their respective contentions.

8. The learned Single Judge, however, did not go into the correctness or otherwise of the rival claims regarding the character of the land and right of the Government to alienate the same. The learned Single Judge, concluded that in the event of his success in the Writ Petition, the petitioner/appellant would be entitled to compensation and the said question can be decided in the main Writ Petition. On the above conclusions, the learned Single Judge found no justification for continuing the order of Status quo, granted on 17.07.2018 and vacated the same.

9. Aggrieved the appellant has come forward with these appeals.

10. We have heard Mr.Richardson Wilson, learned counsel appearing for the appellant, Mr.R.Thiyagarajan, learned Senior Counsel appearing for M/s.Jayesh Dolia for the 3rd respondent, Mr.V.Anandhamoorthy, learned Additional government Pleader for the Respondents 1, 2, 4 & 5.

11. During the course of hearing of these appeals Mr.R.Thiyagarajan, learned Senior Counsel appearing for the 3rd respondent made it clear that the 3rd respondent will not demolish any portion of the hospital belonging to the appellant pending the Writ Petition. He would further state that only structures in the Car parking area would be demolished by Chennai Metro Rail Limited for purpose of providing (*) facilities for the Chennai Metro Rail Station. The said submission of the learned Senior Counsel is recorded. In view of the aforesaid statement made by the learned Senior Counsel, we dispose of these appeals with a direction to the 3rd respondent to abide by the statement made by the learned Senior Counsel appearing for the 3rd respondent before us.

12. We direct the Chennai Metro Rail Limited, namely the 3rd respondent not to demolish any portion of the hospital building pending disposal of the Writ Petition. The Writ Appeals are disposed of with the above observation.

13. All the counsel appearing for the parties would submit that the Writ Petitions should be heard at an early date considering the urgency involved in the project. We therefore direct the Registry to list the Writ Petitions before the concerned port folio Judge. We request the learned Judge to take up the Writ Petitions for final hearing as early as possible. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VIII)

dt.01.08.2018

(*)Amended as per order of this Court dated 3.10.2018 and made in CMP.NOs.14202 to 14204 of 2018 in WA.NO.1592 to 1594/18

Sd/-

Assistant Registrar (CS-II)

dt. 17/10/2018

//True Copy//

WEB COPY

Sub Assistant Registrar

jv

To

1. The Principal Secretary to Govt.,
Government of Tamil Nadu,
Planning, Development and Special
Initiatives Department,
Fort St. George, Secretariat,
Chennai 600 009.
2. The Commissioner of Land Administration
Chepauk, Chennai,
Ezhilagam, Chepauk,
Chennai 600 005.
3. The Managing Director,
Chennai Metro Rail Limited,
Administrative Office Building,
CMRL Depot, Poonamallee High Road,
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4. The District Collector,
Chennai District,
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6. The Commissioner,
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Rippon Building,
Park Town, Chennai 600 003.
7. The Secretary to Government,
Ministry of Urban Development
Union of India,
Room No.308-C, Nirman Bhavan
New Delhi 110 108.

Copy To

The Section Officer,
Writ Section, High Court, Madras.
+1cc to Mr.RICHARSON WILSON, Advocate, S.R.No.50559
+1cc to Mr.JAYESH B DOLIA, Advocate, S.R.No.68942*
+1cc to the Government Pleader, S.R.No.50431

Amended order to be
substituted to the
order already
despatched on
1.8.2018

W.A.No.1592/2018 & CMP No.12795/18,
W.A.No.1593/2018 & CMP Nos.12796 & 12797/18
W.A.No.1594/2018 & CMP Nos.12798 & 12799/18

RJ(CO)
TR(01/08/2018)
EU 17.10.2018