

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.02.2018

Coram: The Honourable Mr. Justice N. SESHASAYEE

W.P.No.28809 of 2015
and
W.P.M.P.Nos.1 & 2 of 2015

R. Gowriammal

...Petitioner

Versus

1. The State of Tamil Nadu Rep. by its
Secretary to Government,
Municipal Administration and
Water Supply Department,
Fort St. George,
Chennai - 600 009.
2. The Commissioner,
Directorate of Town and Country Planning,
Chennai - 600 002.
3. The District Collector,
Coimbatore District,
Coimbatore - 641 018.
4. The Special Tahsildhar,
(Land Acquisition),
Coimbatore South Taluk,
Coimbatore.
5. The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore - 641 001.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the order dated 29.03.2013 made in Letter No.27372/MC.II/2011-9 passed by the first respondent, quash the same and consequently direct the first respondent to re-convey the petitioner's lands measuring an extent of 7704 Sq.ft bearing T.S.No.527/2A2, in Ward No.3, Block No.9, Coimbatore to her.

For Petitioner : Mr. P. Dinesh Kumar
For Respondents - 1 to 4 : Mr. M. Karthikeyan,
Addl. Government Pleader
Respondent -5 : Mr. R. Sivakumar

ORDER

The petitioner in this case claims that she is the owner of a property having an extent of 10,904 sq.ft in T.S.No.527/2 correlated to T.S.No.527/2A2 of Komarapalayam Village, Coimbatore South Taluk. This land along with others ad-measuring a total extent of 7 Acres and 452 sq.ft was acquired by the Government under the provisions of Land Acquisition Act, 1894 (hereinafter referred to as "Act"). The 4(1) Notification was issued on 11.04.1973, followed by a declaration under Section 6 of the Act on 06.04.1976. An award was passed a decade later on 23.09.1986.

2.1. Initially, the property was acquired for some commercial purposes but later properties were converted for formation of Housing Colony. In the layout prepared for the said purpose, the present plot is left for commercial activity. Since, the property remain utilized for close to three decades, the petitioner began knocking the doors of the Government for re-conveyance of her land since 2006. From 12.11.2007 till 12.12.2008, few representations were given and they all failed to evoke a response from the Government. Therefore, the petitioner was constrained to file W.P.No.2412 of 2009 and this Court by its order dated 09.02.2009, directed the Government to consider the said representations. Thereafter, the Commissioner, Coimbatore City Corporation, for whose benefit the lands were acquired, called for a meeting and made a recommendation to the Revenue Official for releasing about 7,704 sq.ft to the petitioner.

2.2. The petitioner learnt that this was followed by a communication from the Government to the Coimbatore City Corporation to conduct a final inspection and to submit a report on the recommendations earlier made. Thereafter, petitioner filed W.P.No.20347 of 2011 and the same was disposed of on 29.09.2011 with a direction to the first respondent to release her land expeditiously and also directed the fifth respondent to expedite the entire process in relation thereto. In responding to the said direction, Coimbatore City Corporation has now made a recommendation that the entire 7,704 sq.ft is now required by the Corporation.

2.3. Based on the same, the Government Vide an impugned order dated 29.03.2013 has rejected the petitioner's claim. This is now in challenge.

3. The Government and the Coimbatore City Municipal Corporation have filed their separate counter affidavits. In the counter affidavit filed by the first respondent, the present requirement for which the lands of the petitioner are required is detailed. The Principal Secretary to Government has averred that out of the entire extent acquired, an extent of 7.01 cents and odd, 4.60 Acres were earmarked for the development of road portion in the scheme area, which has since been developed into a residential layout, and of the remaining extent, 2.41 Acres in Survey No.537/10A is earmarked for constructing a shopping complex and formation of the Scheme Road.

4. Heard Mr.P.Dinesh Kumar, the learned counsel for the petitioner and Mr.M.Karthikeyan, the learned Additional Government Pleader for the respondents 1, 2, 3 & 4 and Mr.Sivakumar, the learned counsel for the fifth respondent.

5.1. The learned counsel for the petitioner narrated the facts herein above stated and added that the State has re-conveyed the lands of the adjacent owners and hence the impugned order is arbitrarily made as it discriminates the petitioner who is similarly placed with those whose lands have been reconveyed.

5.2. The learned counsel for the fifth respondent produced plans/sketches, well coloured and explained it to the Court the very location of the petitioner's property in the entire block of land acquired, and how the Corporation proposes to use the part of the land for laying a road which once laid would connect the existing road on the West and another on the East. He also stated that to the North of the proposed road, an extent of 1300 sq.ft along with a Well remains vacant but added that even this portion is now required for future purpose.

6. While exercising powers of Judicial Review of the administrative action, this Court would refrain from acting as an appellate authority, but would act only as per the well entrenched parameters. Prima facie this Court does not consider any arbitrariness or acts of malafide involved in the action of the first respondent. The Corporation is able to demonstrate before this Court how the property is being developed into a shopping complex, and why the property of the petitioner is indispensable for it lay access-roads to the said shopping complex. Having stated thus, since a plot of 1,305 sq.ft remains to be utilized for little over forty years now, the petitioner may revert back to the Government, in order the

Government may take a call for weighing the genuineness of the alleged present requirement of the Corporation.

7. In the end, this Court dismisses the present petition however with a direction granting the petitioner to make a fresh representation seeking re-conveyance of remaining 1,305 sq.ft, if she is so desirous, within two weeks from the date of receipt of copy of this order, whereupon, the Government may decide the issue in the manner known to law within a period of three months. It is made clear that there is no embargo on the Corporation in developing the area. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

mrr
To:

1. The Secretary to Government,
Municipal Administration and
Water Supply Department, Fort St. George,
Chennai - 600 009.
2. The Commissioner,
Directorate of Town and Country Planning,
Chennai - 600 002.
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Coimbatore South Taluk,
Coimbatore.
5. The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore - 641 001.

+1cc to Mr.P.DINESHKUMAR, Advocate, S.R.No.12064

+1cc to Mr.R.SIVAKUMAR, Advocate, S.R.No. 12106

W.P.No.28809 of 2015

SS (CO)
TR(17/05/2018)