

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 05.06.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.990 of 2006,
W.M.P.No.1121 & 1122 of 2006
and 2109 of 2007

1 S.SARALA
W/O. D.M. RAMACHANDRAN,
NO. 4/95 METTU STREET,
SENNERIKUPPAM, CHENNAI 600 056 ... PETITIONER

Vs.

1 GOVERNMENT OF TAMIL NADU
REP BY ITS SECRETARY,
REVENUE DEPARTMENT, CHENNAI-600 009

2 THE COLLECTOR
THIRUVALUR DISTRICT, THIRUVALUR

3 THE SUB COLLECTOR
PONNERI TALUK, THIRUVALLUR DISTRICT

4 THE TAHSILDAR
AMBATTUR TALUK, THIRUVALLUR DISTRICT.

5 THIRUVERKADU SPL GRADE TOWN
PANCHAYAT REP BY ITS EXECUTIVE OFFICER
CHENNAI-600 077

6 REPCO HOME FINANCE LTD.
REP BY ITS MANAGER,
TAMBARAM BRANCH,
No.20 RAMAKRISHNA STREET, SHANMUGAM ROAD,
WEST TAMBARAM, CHENNAI -45

7 L.R.ASHOK
AUTHORISED CANVASSING AGENT,
REPCO HOME APPLIANCES LTD.
ASHOK NAGAR, CHENNAI-83 ... RESPONDENTS

(Respondents 6 & 7 were impleaded vide order, dated 29/08/07 in
W.P.M.P.No.465 of 2007)

Prayer: Writ Petition filed under Article 226 of the
Constitution of India, praying for the issuance of a Writ of

Mandamus, directing the respondents to restore the building of the petitioner in the land measuring 0.30.cents in Old Survey No. 67/2 New Survey No.1, Shanmuga Avenue, Noombal Madura Pallikuppam Village, Poonamallee High Road, Chennai 600 077 (patta No. 494) as it was before demolition or to pay a sum of Rs,12,36,185/- as compensation for reconstructing the building and Rs.20 lakhs towards damages for the sufferings and mental agony suffered by the petitioner with 18% interest p.a. till the date of payment.

For Petitioners : Mr.N.R.Rajagopalan

For Respondents 1 to 4 : Mr.R.Govindasamy,
Spl. Govt. Pleader

For Respondent No.5 : Mr.R.Mohandoss

For Respondents 6 & 7 : Mr.M.Vijayakumar

O R D E R

The petitioner has filed the writ petition seeking mandamus, directing the respondents to restore the building of the petitioner in the land measuring 0.30.cents in Old Survey No. 67/2 New Survey No. 1 Shanmuga Avenue, Noombal Madura Pallikuppam Village, Poonamallee High Road Chennai 600 077 (patta No. 494) as it was before demolition or in the alternative to pay a sum of Rs,12,36,185/- as compensation for reconstructing the building and Rs.20 lakhs towards damages for the sufferings and mental agony suffered by the petitioner with 18% interest p.a. till the date of payment.

2 The case of the petitioner is that the petitioner is the owner of the land comprised in S.No.1, measuring 0.30 cents situated at Shanmuga Avenue, Noombal Madura Pallikuppam Village, Poonamallee high road, Chennai 600 077. The said land was purchased by sale deed, dated 31.12.1999 for a valuable sale consideration. Thereafter, joint patta was issued for a larger extent of land in the Village for nearly 93 persons including the petitioner by the revenue authorities. Hence, the land in old Survey No.67/2, New Survey No.1, Shanmuga Avenue, Noombal Madura Pallikuppam Village measuring 0.30 cents is a patta land and the patta number is 494. The 5th respondent by proceedings, dated 19.9.2004 regularised the said plot after collecting the regularisation fee under the relevant rules. The petitioner obtained planning permission for constructing a building by paying Rs.1,26,185/- to various authorities towards development charges including rainwater harvesting etc. The petitioner applied loan from REPCO Bank for construction of building. On the basis of legal opinion, the Bank sanctioned a loan of Rs.8.50 lakhs to the petitioner. The petitioner has invested Rs.11.10 lakhs towards the construction of the building and paid Rs.1,26,185/- towards statutory payments to various authorities. The petitioner and his family members are residing in the said property. While so, after the recent rain havoc in Chennai

city, the Government machinery got panic and removed the alleged encroachments in the Coovum river in Maduravaoil village. Without following the due procedure contemplated under Sec.6 and 7 of the Tamil Nadu Land Encroachment Act, the occupants cannot be evicted. The petitioner made representation to the respondents on 21.12.2005 and also sent a telegram on 21.12.2005 stating that the writ petition is being filed and requested the authorities to defer further action for two days to produce documents to prove the title. Thereafter, the petitioner has filed W.P.No.41307 of 2005 before this Court. However, before listing the case, the petitioner's house and compound wall were demolished by the Government machinery. Aggrieved by the same, the present writ petition has been filed for the aforesaid prayer.

3 The learned counsel for the petitioner would submit that without invoking law either land acquisition Act or any other law in force, the respondents demolished the compound wall put up by the petitioner which is unsustainable in law and the petitioner is entitled for damages against the respondents.

4 Per contra, the learned counsel for the 5th respondent viz., Thiruverkadu Spl. Grade Town Panchayat, would submit that the petitioner has filed similar writ petition in W.P.No.41360 of 2005 and 41307 of 2005 before this Court. The said writ petitions were dismissed as withdrawn without any liberty to file fresh writ petition. Hence, the present writ petition is not maintainable.

5 The learned Spl. Govt. Pleader for the respondents 1 to 4 would submit that the third respondent has filed counter. The sum and substance of the counter is as follows:

The petitioner along with other persons constructed a superstructure in Koovam river. In order to allow free flow of flood water in the Koovam river, the revenue authorities conducted survey and after survey it was brought to the notice that patta has been issued to various persons occupying the Koovam river. The pattadars have constructed many residential buildings in Koovam river which affected free flow of flood water in the river. Hence, the revenue authorities decided to demolish the buildings which lies in Koovam river and affects the free flow of water in the river. Accordingly, many buildings including compound wall of Dr.M.G.R. Engineering College located along the bound of Koovam river were demolished to pave the way for free flow of flood water in Koovam river. After identifying the encroachments, the Government machinery removed encroachments in order to face emergency flood situation which was occurred in the year 2006, when the entire State was flooded with water because of the encroachments in the Koovam river.

6 The petitioners in the writ petition seeking compensation against the respondents for demolition of the superstructure put up by the petitioner. This Court under

Article 226 of Constitution of India cannot decide title and also, the petitioner cannot claim damages before the Writ Court as the prayer in the writ petition involves disputed question of law. The petitioner has to approach the appropriate forum and work out the remedy in the manner known to law.

7 In view of the above, I do not find any merit in the writ petition and accordingly, the writ petition is dismissed with liberty to the petitioner to work out the remedy in the manner known to law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

- 1 THE SECRETARY,
GOVERNMENT OF TAMILNADU, REVENUE DEPARTMENT, CHENNAI-9.
- 2 THE COLLECTOR, THIRUVALLUR DISTRICT, THIRUVALLUR.
- 3 THE SUB COLLECTOR, PONNERI TALUK THIRUVALLUR DISTRICT.
- 4 THE TAHSILDAR, AMBATTUR TALUK THIRUVALLUR DISTRICT.

+1cc to Mr.R.Mohandoss, Advocate Sr.No.34894

+2cc to Mr.V.Raghupathi, Advocate Sr.No.35197

MR(CO)

sm:19.6.2018

W.P.No.990 of 2006 and
W.M.P.No.1121 and 1122 of 2006
and 2109 of 2007
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