

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.P. No.14835 of 2018

M/s.DPF Textiles Private Limited,
Represented by its Director,
viz., M.Leema Rose,
W/o.S.Martin,
Having registered office at
No.54, Mettupalayam Road,
G.N.Mills Post,
Coimbatore - 641 029. ... Petitioner

Vs.

- 1.The Special Tahsildar,
(Land Acquisition),
Housing Scheme No.1,
(In charge of Erstwhile Housing Scheme No.III),
Coimbatore.
- 2.The Special Tahsildar,
(Land Acquisition),
Housing Scheme Unit No.II,
Coimbatore - 18.
- 3.The Sub-Registrar,
Ganapathy Sub-Registrar Office,
Coimbatore North Taluk,
Coimbatore. .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the third respondent in Na.Ka.No.67/2018, dated 26.02.2018 and quash the same and consequently directing the third respondent to remove the Entries in Document Nos.72, 73 & 74 of 1989 recorded in the Encumbrance Registers pertaining to the properties in S.F.Nos.9/1, 9/2 & 12 of Ganapathy Village, Coimbatore North Taluk, Coimbatore District.

For Petitioner : Mr.E.K.Kumaresan
For Respondents : Mr.D.Raja
Additional Government Pleader for R1 & R2

Mr.T.M.Pappaiah
Special Government Pleader for R3

O R D E R

I have heard Mr.E.K.Kumaresan, learned counsel for the petitioner; Mr.D.Raja, learned Additional Government Pleader for the respondents 1 and 2; Mr.T.M.Pappaiah, learned Special Government Pleader for the third respondent and perused the materials available on record.

2. This Writ Petition has been filed to quash the order of the third respondent dated 26.02.2018, whereby, the request of the petitioner to remove the entries in the Encumbrance Register was rejected and for a direction to the third respondent to remove the entries in the Encumbrance Register.

3. The petitioner would claim that the petitioner Company became the owner of the properties measuring an extent of 2 acres in S.F.Nos.9/1, 9/2 & 12 of Ganapathy Village, by virtue of a registered sale deed dated 30.08.2000. Since then, it has been in possession and enjoyment of the same. Prior to the purchase, the Government issued a notification to acquire the said land and the same was challenged in W.P.Nos.12154 of 1986, 12155 of 1986 & 6879 of 1988 and the Writ Petitions are allowed by a common order dated 11.10.1999. The Government did not prefer any appeal and hence the order has become final.

4. The petitioner would further state that in the meanwhile an award was passed and the same was registered in the Office of the third respondent under Document Nos.72,73 & 74 of 1989. The entry was removed pursuant to the order passed in W.P.No.7603 of 2000. The further case of the petitioner is that a fresh notification was issued under Section 4(1) of the Land Acquisition Act on 20.08.2004 to acquire the lands referred supra and the acquisition proceedings were quashed in W.P.No.32827 of 2004. The appeal preferred by the Housing Board in W.A.No.151 of 2012 came to be dismissed on 08.12.2017.

5. The grievance of the petitioner is that in the Encumbrance Register the name of the Housing Board, the beneficiary of the acquisition has been entered and the representation to remove the entry was rejected in an arbitrary manner.

6. The learned Government Advocate submitted that after the order of this court in W.P.No.6879 of 1988 batch, the Special Tahsildar, first respondent, had given instructions to the third respondent to delete the entry and since the Writ Appeal in W.A.No.151 of 2012 came to be dismissed only recently, i.e., on

08.12.2017, no instruction has been given by the first respondent to remove the entry.

7. Indisputably the notification issued to acquire the lands in S.F.No.9/1, 9/2 & 12 in Ganapathy Village, Coimbatore North Taluk, Coimbatore District, has been set aside by this Court in W.P.No.6879 of 1988, which was confirmed by the Division Bench in Writ Appeal No.151 of 2012. It is also not in dispute that so far the respondents have not preferred any appeal challenging the order of the Division Bench.

8. In the light of the above undisputed facts, the impugned order rejecting the request of the petitioner cannot be countenanced. In that view, the impugned order of the third respondent dated 26.02.2018 is set aside and the third respondent is directed to remove the entries in Document Nos.72, 73 & 74 of 1989 recorded in the Encumbrance Registers pertaining to the properties in S.F.Nos.9/1, 9/2 & 12 of Ganapathy Village, Coimbatore North Taluk, Coimbatore District forthwith.

9. In the result, the Writ Petition is allowed. There is no order as to costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

r n s

To

1.The Special Tahsildar,
(Land Acquisition),
Housing Scheme No.1,
(In charge of Erstwhile Housing Scheme No.III),
Coimbatore.

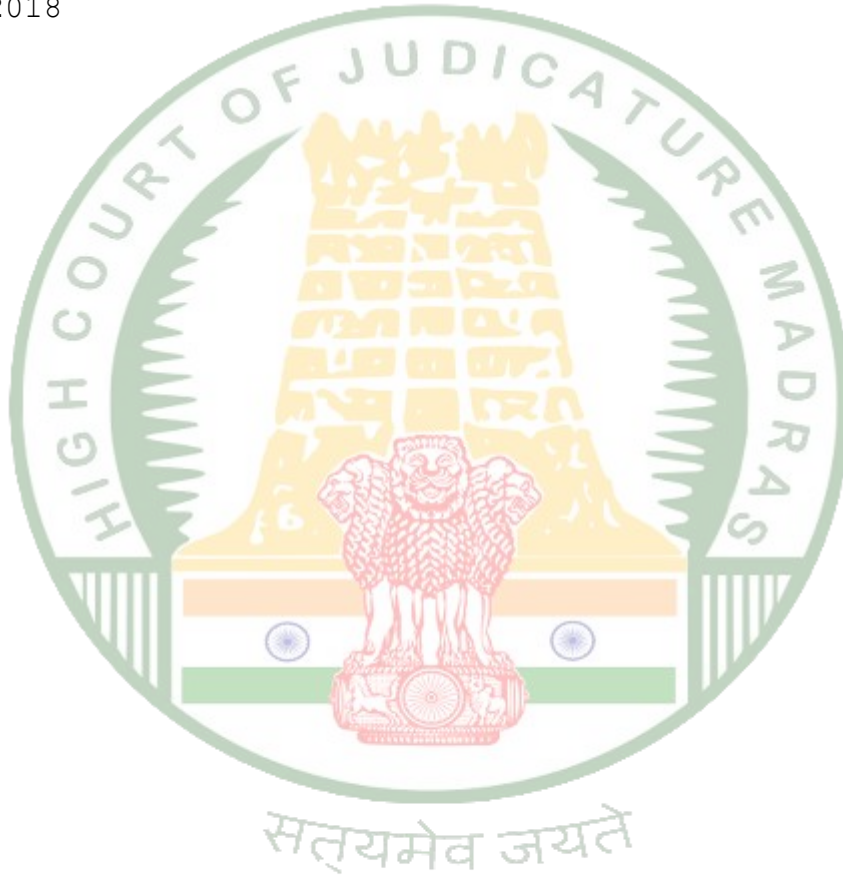
2.The Special Tahsildar,
(Land Acquisition),
Housing Scheme Unit No.II,
Coimbatore - 18.

3.The Sub-Registrar,
Ganapathy Sub-Registrar Office,
Coimbatore North Taluk,
Coimbatore.

+1cc to Mr.E.K.Kumaresan, Advocate sr.no.53166
+1cc to Government Pleader sr.no.53967

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