

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2018

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.24879 of 2016
and
WMP.Nos.21223 to 21225 of 2016
and WMP.No.29736 of 2017

N.Ramamoorthy ... Petitioner

-Vs-

- 1.The Principal Secretary to Government
Highways and Minor Ports Department
Fort St.George, Chennai - 600 009.
- 2.The District Collector
Chennai District
Singaravelar Maaligai
Chennai - 600 001.
- 3.The Special Deputy Collector (Land Acquisition)
Tamil Nadu Urban Development Project-III
15, M.G.Nagar Main Road
Chennai at Poonamallee
Chennai - 600 056.
- 4.The Chief Engineer (Metro)
Highways Department
Alandur, Chennai - 600 016.
- 5.The Divisional Engineer (Highways)
C.M.D.A., Division-IV
Chennai - 600 016.
- 6.The Tahsildar
Velachery Taluk
Taramani
Chennai - 600 113.
- 7.N.Ethiraj
- 8.R.Padmavathy
- 9.B.Devaki
- 10.V.Shantha
- 11.N.Soundaravalli
- 12.Tamilselvi ... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records pertaining to the issue of the notice under Section 15(2) of the Tamil Nadu Highways Act, 2001 (Act 34 of 2002) in Na.Ka.No.1565/2012/E1 dated 7.11.2013 published in Tamil Newspaper "Namadhu MGR" dated 09.11.2013 and the notification under Section 15(1) of the Tamil Nadu Highways Act 2001 (Act 34 of 2002) in G.O.Ms.No.143 Highways and Minor Ports (HW-1) dated 27.11.2014 published in Tamil Nadu Government Gazette dated 17.12.2014 in respect of the land belonging to the petitioner and the respondents 6 to 11 in Block No.169, T.S.No.216 sub-divided as 216/2 (Part) measuring 0.06.54.0 H.A . sq.mtr. corresponding to Survey No.362 in Velacherry Village, Mambalam-Guindy Taluk, Chennai District and quash the same.

For Petitioner : Mr.M.S.Subramanian

For Respondents : Mr.Akhil Akbar Ali
Government Advocate [for RR1 to 6]

Mr.R.Arunkumar [for R7]

Mr.K.Vinayagamoorthy [for R10]

Mr.T.P.Sekar [for R12]

R8 - Vacated

R9 - No appearance

R11 - No such address

ORDER

By consent of both sides, this writ petition is taken up for final disposal.

2. The petitioner has filed this writ petition praying for issuance of writ of certiorari, to quash the notice issued under Section 15(2) of the Tamil Nadu Highways Act, 2001 (Act 34 of 2002) in Na.Ka.No.1565/2012/E1 dated 7.11.2013 and the notification under Section 15(1) of the Tamil Nadu Highways Act 2001 (Act 34 of 2002) in G.O.Ms.No.143 Highways and Minor Ports (HW-1) dated 27.11.2014 published in Tamil Nadu Government Gazette dated 17.12.2014 with regard to the petitioner's property.

3. According to the petitioner, his father Narasimmalu Naicker was owning 1.28.5 acres of land in Survey No.362 of Velachery Village, and that, a substantial part thereof was acquired by the State and to the remainder, the petitioner was in

possession. The petitioner and the respondents 6 to 11 are the legal representatives of Narasimmalu Naicker. While so, the Government has issued a notification under Section 15(2) of the Tamil Nadu Highways Act, 2001 and in the said Gazette notification, property under Survey No.216 of Velachery Village was shown to belong to the Government. Since according to the petitioner, the petitioner has put up some commercial buildings in the said property and that they were assessed to property tax and are being paid. Ignoring the rights of the petitioner over the property in the said survey number, the State has exploited its intention to treat it as Government land and proceeded with acquisition and hence, the petitioner has come forward with the present petition to quash the same.

4. In the counter affidavit filed by the third respondent, on the point of title which the petitioner asserts over the property in the said Survey No.216, where his commercial buildings etc., stands, it is alleged that these properties came under the Urban Land and Ceiling Act and pursuant to the same, the Government has taken possession. This is resisted to by the petitioner in the rejoinder affidavit.

5. In the course of arguments, Mr.Akhil Akbar Ali, learned Government Advocate appearing for the State has brought to the notice of the Court that the proceedings of the District Collector, Chennai to the Commissioner, Land Administration, Chennai, to the effect that the property in T.S.No.216 of Velachery Village, which the petitioner claims as their property and concedes to the petitioner's title over the same and accordingly a request was made to the effect to make necessary changes in the revenue records.

6. The learned counsel for the petitioner would submit that at any rate petitioner's property should not be taken possession of by the respondents without recourse to land acquisition, at no point of time the procedure contemplated under the Tamil Nadu Highways Act, 2001 shall be diluted as to impair the rights of the petitioner in any manner whatsoever.

7. In view of the change of stand now fairly adopted by the respondents-State, acknowledging the title of the petitioner over his property, this Court necessarily has to record the same and give a quietus to the proceedings.

8. Accordingly, this petition is allowed and the notices issued under Sections 15(2) and 15(1) of the Tamil Nadu Highways Act, 2001 are hereby quashed, however with a modification directing the respondents concerned to effect necessary correction in the revenue records and thereafter to initiate the proceedings for acquisition without compromising on any of the procedures

required therefor. The entire process of acquisition shall conclude within four months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ds

To:

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Taramani, Chennai - 600 113.

+2cc to Mr.M.S.Subramanian, Advocate, S.R.No.8070

W.P.No.24879 of 2016

KAN(CO)
RRK(15/02/2018)