

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.07.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.23980 of 2013
and
M.P.No.1 to 3 of 2013

S.Gopalakrishnan

..Petitioner

vs

1.The District Collector,
Kancheepuram District,

2.The Special Tashildar (Land Acquisition)
Outer Ring Road Plan, Phase II,
Chennai Metropolitan Development Authority,
Chennai - 600 008.

3.The Assistant Engineer
Tamil Nadu Electricity Board,
No.1, Pallar Street, Kundrathur,
Chennai - 600 069.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the second respondent, his men, agents, servants or subordinates or anybody claiming through him from in any manner interfering with the petitioners peaceful possession and enjoyment of property situate at Plot No.19, Gangai Amman Koil Street, Srimathi Nagar, Kundrathur, Chennai - 600 069, respectively without following the procedures contemplated under law.

For Petitioner : Mr.P.Vasanth
For Respondents 1 & 2 : Mr.D.Raghu
Government Advocate
For Respondent 3 : Mr.P.R.Dhilip Kumar

O R D E R

The relief sought for in this writ petition is to forbear the second respondent, his men agents, servants or subordinate or anybody claiming through him from in any manner interfering

with the petitioner peaceful possession and enjoyment of the property situated at Plot No.19, Gangai Amman Koil Street, Srimathi Nagar, Kundrathur, Chennai-69.

2. The learned counsel appearing on behalf of the writ petitioner, made a submission that the petitioner has been in possession and enjoyment of the property prescribed in the writ petition. The second respondent/Special Tahsildar (Land Acquisition) is disturbing the peaceful possession of the writ petitioner over the said property and therefore the writ petitioner is constrained to move the present writ petition. The petitioner admits the fact that during the year 2003, the second respondent had issued a notice of acquisition for acquiring the land belongs to the writ petitioner for expansion of outer ring road in Kundrathur, area.

3. Further, it is an admitted fact that the writ petitioner had received the compensation and an assurance was given by the authorities that in case the land is not put in use for the purpose for which, it was acquired the land would be returned to the original owner of repayment of the compensation amount. On this ground, the writ petitioner claims that the land has not been utilised by the Government and further the petitioner is in possession of the land as on date, and therefore the authorities must grant an order of exemption from the land acquisition proceedings.

4. The learned Government Advocate appearing for the respondents relying on the counter filed by the Special Tahsildar (Land Acquisition) has stated that the writ petitioner Thiru. Gopalakrishnan was in possession of the property in Survey No.1286/1A1A measuring an extent 0.01.0 Ares i.e. 2.47 cents, as stated in the petition affidavit. The land was acquired for the purpose of extension of the outer ring road in Kundrathur area and in view of the said acquisition proceedings, compensation also had been paid by the authorities to the writ petitioner and the same had been agreed by the writ petitioner. The oral promise as stated in the affidavit is false. The competent authorities are not empowered to provide such oral assurance, after the initiation of the land acquisition proceedings under the Act. Once the acquisition proceedings were completed and the compensation amount had already been paid which was accepted by the writ petitioner, there is no question of providing any promise that the land will be returned to the writ petitioner. Thus, the possession of writ petitioner is to be construed as illegal occupation of the said land and he should be treated as a trespasser. Further, it is contended that the said property is located in the outer ring road and amenities related to the project which is yet to be completed. The contentions raised by the writ petitioner are baseless since

the subject land is very much required for the formation of outer ring road project, which is approved by the Government and is not tentative.

5. This apart, the land acquisition proceedings are not under challenge in this writ petition. Contrarily the present writ petition has been filed for relief to forbear the respondents from interfering with the peaceful possession and enjoyment of the property by the writ petitioner. Such prayer cannot be granted in view of the fact that the acquisition proceedings had already been concluded and the writ petitioner had received the compensation pursuant to the said land acquisition proceedings. Once the land was acquired under the provisions of the act and compensation has been paid to the land owner, he cannot file the writ petition seeking prayer to forbear the respondents from interfering with the peaceful possession and enjoyment of the property and therefore no relief as sought for, can be granted by this Court. In fact by virtue of land acquisition proceedings initiated and completed and the writ petitioner had received the compensation, the writ petitioner has automatically ceased to be owner of the subject property and therefore he cannot claim or seek any relief.

6. Accordingly, the writ petitions stand dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

nmm/stm
To

1.The District Collector,
Kancheepuram District,

2.The Special Tashildar (Land Acquisition)
Outer Ring Road Plan, Phase II,
Chennai Metropolitan Development Authority,
Chennai - 600 008.

+1cc to the Government Pleader, S.R.No.48058

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CS/10/08/18