

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2018

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THE HONOURABLE THIRU JUSTICE V. PARTHIBAN

W.P.No.1560 of 2012 &
M.P.No.1 of 2012

1. Mrs.Savithiriammal (Deceased)
2. G.Lakshmi Narayanan
3. G.Venkatesan
4. G.Sundaresan .. Petitioners

[P-2 to P-4 are substituted as LRs
of deceased P-1 Mrs.Savithiriammal as
per order dated 13.03.2017 by MSJ
in WMP No.38226/2016 in w.P.No.1560/2012]

versus

1. State of Tamil Nadu
Rep. By its Secretary to Government,
Highways Department,
Fort St. George,
Chennai-600 009.
2. State Highways Department,
Rep. By its Executive Engineer,
Saidapet,
Chennai-600 015.
3. The Collector,
Kancheepuram District,
Kancheepuram.
4. The Special Tahsildar,
(Delivery -Housing Plot),
Saidapet,
Chennai-600 015. .. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, forbearing the respondents from expropriating a portion of the petitioner's property to an extent of 1.5 cents, out of 6 cents, comprised in Old S.No.17/4, New S.No.17/18, at No.37, Rajakilpakkam Village, Tambaram Taluk, erstwhile Saidapet Taluk, situated at No.221, Velacherry High Road, Kamarajapuram, Chennai-600 073, as marked by the respondents, by planting stones.

For Petitioner : Mr.G.N.Rajan

For Respondents: Mr.T.M.Pappiah
Spl. Government Pleader

ORDER

The petitioner has approached this Court, seeking the following relief:

"To issue Writ of Mandamus, forbearing the respondents from expropriating a portion of the petitioner's property to an extent of 1.5 cents, out of 6 cents, comprised in Old S.No.17/4, New S.No.17/18, at No.37, Rajakilpakkam Village, Tambaram Taluk, erstwhile Saidapet Taluk, situated at No.221, Velacherry High Road, Kamarajapuram, Chennai-600 073, as marked by the respondents, by planting stones."

2. The present petitioners are the legal heirs of the original petitioner Mrs.Savithiriammal. The said Savithiriammal, was the absolute owner of 6 cents of land, comprising in Old S. No.17/4, New S.No.17/18, at No.37, Rajakilpakkam Village, Tambaram Taluk, erstwhile Saidapet Taluk, situated at No.221, Velacherry High Road, Kamarajapuram, Chennai-600 073. She also purchased a housing plot (Plot No.9 measuring 3 cents) from the first respondent herein by paying a sale consideration of Rs.2,179.65 vide Challan No.95/83 dated 10.02.1983). She has constructed a house in the plot and residing there since 1965. She also purchased a further extent of land measuring 3 cents, adjoining to her house and the same was also under her occupation and enjoyment. The said Savithiriammal became the absolute owner of the property by virtue of her two valid purchase measuring totally 6 cents of land.

3. While so, it appears that some officials came from the Highways Department and inspected her property and were measuring the same without informing the said Savithiriammal, owner of the land the reason for which such inspection was being conducted. On enquiry, she came to know that the officials were trying to trespass into the property for the purpose of widening Velachery Road and they were planning to take possession of a portion of the property. No notice was issued to her and no communication was served on the petitioner regarding such acquisition. In the said circumstances, the petitioner approached this Court seeking to forbear the respondents from expropriating a portion of the property.

4. The learned counsel for the petitioner would submit that in similar circumstances, a Division Bench of this Court in W.A.No.1772 of 2002 dated 01.07.2002, has given a following direction which is extracted herein:

2. Even though there is no cause for filing this writ appeal as on this date, and as the apprehension cannot be said to be totally baseless, we make it clear that the land of the appellant shall not be acquired otherwise than by due process of law i.e., by following the procedure contemplated under the Land Acquisition Act. If the appellant consent voluntarily, the authorities are not precluded from negotiating with him. But, should the negotiations not fructified into a voluntary settlement, the only alternative for the authorities is to acquire the land under the Land Acquisition Act by following the procedures contemplated therein scrupulously, if the authorities feel that the land of the appellant is required for the purpose of widening the road."

The learned counsel for the petitioner would submit that a similar direction may be issued in this case also.

5. Upon notice, Mr.T.M.Pappiah, the learned Special Government Pleader entered appearance on behalf of the respondents and since the direction which is sought for in the writ petition is very limited in its scope, the learned Special Government Pleader would express no objection for giving such direction by this Court.

6. For the above said reason, this Court directs that the subject matter of the land shall not be acquired otherwise than by due process of law i.e., by following the procedure contemplated under the Land Acquisition Act. If the petitioners give consent voluntarily, the authorities are not precluded from negotiating with the petitioners. If no such consent is given, the authorities shall proceed to acquire the land by scrupulously following the procedure contemplated under the Land Acquisition Act. In case, the land is required for any such purpose, it is made clear that the petitioners shall be put notice and the authorities shall strictly follow the procedure under the relevant provisions and proceed to acquire the same.

7. With this observation, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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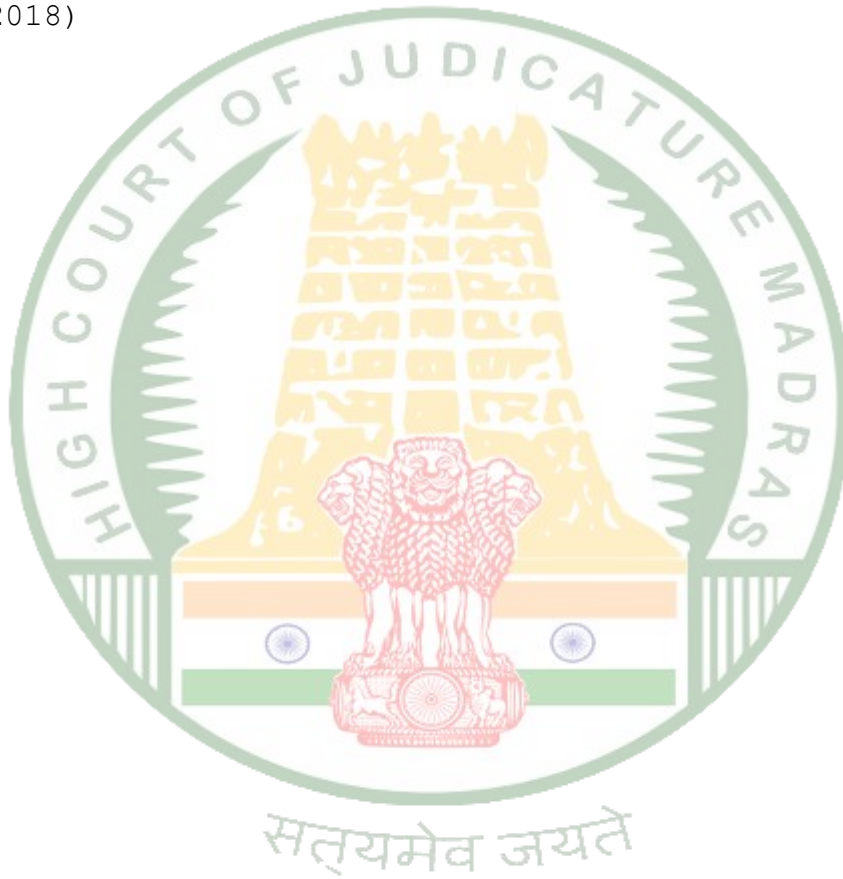
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+1cc to the Government Pleader, S.R.No. 9719
+1cc to Mr.N.RAJAN, Advocate, S.R.No. 9681

W.P.No.1560 of 2012 &
M.P.No.1 of 2012

TR(27/02/2018)



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