

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2018

CORAM:

THE HON'BLE MR. JUSTICE V. PARTHIBAN

W.P. Nos.17123, 17168 and 17239 of 2012

1 D. Sasikala

2 S. Iqbal

3 Manojkumar

4 M. Krishnan

5 S. Malmarugan

6 L. Bhanumathi

7 S. Jawahar Ali

Petitioners in W.P. No.17123/2012

1 Manojkumar

2 M.G. Raman

3 NL. Palaniappan

4 M. Rafiqdeen

5 Mohamed Vaseerdeen

6 T. Venus Veera Arasu

7 O.T.S.A Shahul Hameed

8 M.G. Mohan

Petitioners in W.P. No.17168/2012

R. Krishnamoorthy

Petitioner in W.P. No.17239/2012

vs.

1 Chennai Metro Rail Ltd.  
Represented by its Managing Director  
"Harini Towers"  
No.7, Conran Smith Road  
Gopalapuram  
Chennai 600 086

- 2 The Divisional Revenue Officer/  
The Land Acquiring Authority for the  
Chennai Metro Rail Project  
O/o the Chennai Metro Rail Project  
"Harini Towers"  
No.7, Conran Smith Road  
Gopalapuram  
Chennai 600 086
- 3 The Secretary to the Government  
of Tamil Nadu  
Planning, Development and Special  
Initiatives (CSS) Department  
Secretariat  
Fort St. George  
Chennai 600 009
- 4 The Estate Officer/Deputy Commissioner  
O/o the Deputy Commissioner of Police  
Flower Bazaar  
Chennai 600 001 Respondents in all the Writ Petitions

Prayer in W.P. No.17123 of 2012:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records on the file of the first respondent and quash its reply letter Rc.83/LND/CMRL/2011 dated 08.02.2012 as illegal and consequently, direct the respondents to award compensation to the petitioners in accordance with the appropriate procedures set out in the Land Acquisition Act, 1894.

Prayer in W.P. No.17168 of 2012:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records on the file of the first respondent and quash its reply letter Rc.83/LND/CMRL/2011 dated 14.02.2012 as illegal and consequently, direct the 1<sup>st</sup> respondents to award compensation to the petitioners in accordance with the appropriate procedures set out in the Land Acquisition Act, 1894.

Prayer in W.P. No.17239 of 2012:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records on the file of the first respondent and quash its reply letter Rc.83/LND/CMRL/2011 dated 21.02.2012 as illegal and consequently, direct the respondents to award compensation to the petitioner in accordance with the appropriate procedures set out in the Land Acquisition Act, 1894.

For petitioners in  
all the WPs

Mr. M. Purushothaman

For R1 in  
all the WPs

Mr. Jayesh Dolia  
for M/s. Aiyar & Dolia

For RR 2 - 4 in  
all the WPs

Mr.T.M. Pappiah  
Special Government Pleader

#### COMMON ORDER

In view of commonality of the issue involved and so also the grounds raised, these writ petitions are being considered and decided by this common order.

2 The facts leading to the institution of these three writ petitions are succinctly stated hereunder:

2.1 All the writ petitioners were tenants in respective shops and premises situated at Mannady Police Quarters, Broadway, Chennai - 600 108. The premises in question belong to the Police Department and the shops were let out to these writ petitioners on various dates under separate lease agreements. According to the petitioners, they had been in occupation of the shops as tenants for several years.

2.2 While so, in 2009, a notice was issued by the Police Department calling all the tenants of the shops, including the petitioners herein, to vacate the shop premises since the same were required to be handed over to the first respondent for the implementation of Chennai Metro Rail Project.

2.3 The said notice was called in question in a batch of writ petitions by the tenants in W.P. Nos.11213 to 11234 of 2010. The main plank of contention of the petitioners therein was that the Police Department did not follow the due process of law, before resorting to evict them.

2.4 The said batch of writ petitions was disposed of by this Court vide order dated 24.09.2010, after recording the undertaking by the Department that no action will be initiated without following the due process of law.

2.5 Thereafter, a notice was issued to all the tenants terminating the lease agreements and further, the Department initiated action under the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975. This was also put to challenge by several tenants in other batch of writ petitions being W.P. Nos.383 to 385 of 2012.

2.6 According to the tenants/petitioners therein, the Department had initiated action under the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975, instead of initiating action under the provisions of the Land Acquisition Act, 1894. However, the said writ petitions came to be dismissed by this Court vide order dated 06.01.2012 with an observation that it was open to the petitioners therein to approach the authority concerned for compensation, if permissible in law.

2.7 Left with no other option, all the tenants, including the petitioners herein, had handed over the possession of the respective premises in their occupation to the respondents in 2012 itself. Having handed over the possession, the writ petitioners had also submitted individual representations simultaneously on 31.01.2012, seeking compensation for acquisition of the shops under their occupation by the Department.

2.8 In response to their representations, the orders dated 08.02.2012, 14.02.2012 and 21.02.2012 were passed rejecting the claim of the petitioners, on the ground that they were not entitled to any compensation since they were sought to be evicted only under the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975 and there was no acquisition proceedings initiated at all.

2.9 According to the respondents, the premises were handed over by one Government Department to another Government Department and as such, there was no acquisition at all under any enactment, particularly, under the Land Acquisition Act, 1894.

2.10 The legality and validity of the aforesaid orders dated 08.02.2012, 14.02.2012 and 21.02.2012 are assailed in this batch of three writ petitions.

3 The learned counsel for the petitioners would premise his argument on the ground that, being lawful tenants for several years, the petitioners were entitled to appropriate compensation once the lands were acquired under the Land Acquisition Act, 1894. According to him, the Courts have recognised the rights of lawful tenants for suitable compensation, in case, the premises are subjected to acquisition under the Land Acquisition Act, 1894. In support of this contention, the learned counsel would rely on the following decisions:

- i Larger Bench judgment of the High Court of Hyderabad in Raisunna Begum and Others [2016 (4) CTC 236 ];

ii Judgment of this Court in T.K. Ayub vs. Mohammed Hanif [2010-2-LW 497]; and

iii Judgment of the Supreme Court in Inder Parshad vs. Union of India and others [(1994) 5 SCC 239].

The decisions referred to above relied upon by the learned counsel for the petitioners are to the effect that the lessees / tenants have a right to get appropriate compensation, in the event of their premises being subjected to land acquisition proceedings.

4 Upon notice, Mr. Jayesh B. Dolia representing M/s. Aiyar & Dolia, has entered appearance for the first respondent and filed a common counter affidavit in respect of all the three writ petitions, wherein, reasons have been reiterated in detail, as set forth in the impugned rejection orders passed by the first respondent.

5 According to the learned counsel for the first respondent, the petitioners' claim is unfounded and baseless for the simple reason that there was no acquisition in the first place under any Acquisition Act and therefore, the question of payment of any compensation to the petitioners does not arise at all. Secondly, according to him, the petitioners were neither owners of the property nor do they have any title to the same and as such, they cannot claim any compensation, more particularly, in the absence of any land acquisition proceedings. According to the learned counsel, all the petitioners were mere tenants under lease agreements and once the premises had been handed over to Chennai Metro Rail Ltd. Project by the Police Department who are the owners of the premises, the question of payment of any compensation is not envisaged or contemplated under any provision of law. He would further submit that the decisions relied upon by the learned counsel for the petitioners are distinguishable on facts, inasmuch as, they all relate to land acquisition proceedings and hence, the same cannot be applied to the factual matrix of the cases at hand.

6 This Court has given anxious consideration to the rival submissions and perused the materials and pleadings placed on record.

7 As rightly contended by the learned counsel for the first respondent, the entire premise on the basis of which, the claim of the petitioners for compensation is made, is invalid and fallacious, since land acquisition proceedings pre-supposes claim for compensation. Incontrovertibly, in the cases at hand, the premises were not subjected to any land acquisition proceedings and it was a simple transfer of the premises from the State Government to the Central Government. Such being the

case, this Court is at a loss to understand as to what is the legal basis for the claim of the petitioners for seeking compensation.

8 Although a feeble attempt has been made by the learned counsel for the petitioners to impress upon this Court that the premises ought to have been subjected to land acquisition proceedings, such an argument appears to be ex facie preposterous and cannot be countenanced in law. This Court cannot compel the respondents to resort to land acquisition proceedings when lands were transferred on their own volition by the Police Department towards the Chennai Metro Rail Ltd. Project. The tenants cannot, therefore, have an independent right as that of the original owner, for staking any compensation.

9 The entire claim of the petitioners, in the considered opinion of this Court, suffers from misconception of both facts and law on their part. The claim of the petitioners, in all fours, cannot be countenanced, either in law or on facts. Further, as rightly pointed out by the learned counsel for the first respondent, the decisions relied upon by the learned counsel for the petitioners can hardly be of any avail to the petitioners, inasmuch as they are distinguishable on facts and hence, the same cannot be applied to the present cases.

In the above circumstances, this Court finds no merit or substance in the three writ petitions and therefore, all the three writ petitions stand dismissed. No costs.

Sd/-  
Asst.Registrar (CS II )

/true copy/

Sub Asst. Registrar

To

- 1 The Managing Director  
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"Harini Towers"  
No.7, Conran Smith Road  
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- 2 The Divisional Revenue Officer/  
The Land Acquiring Authority for the  
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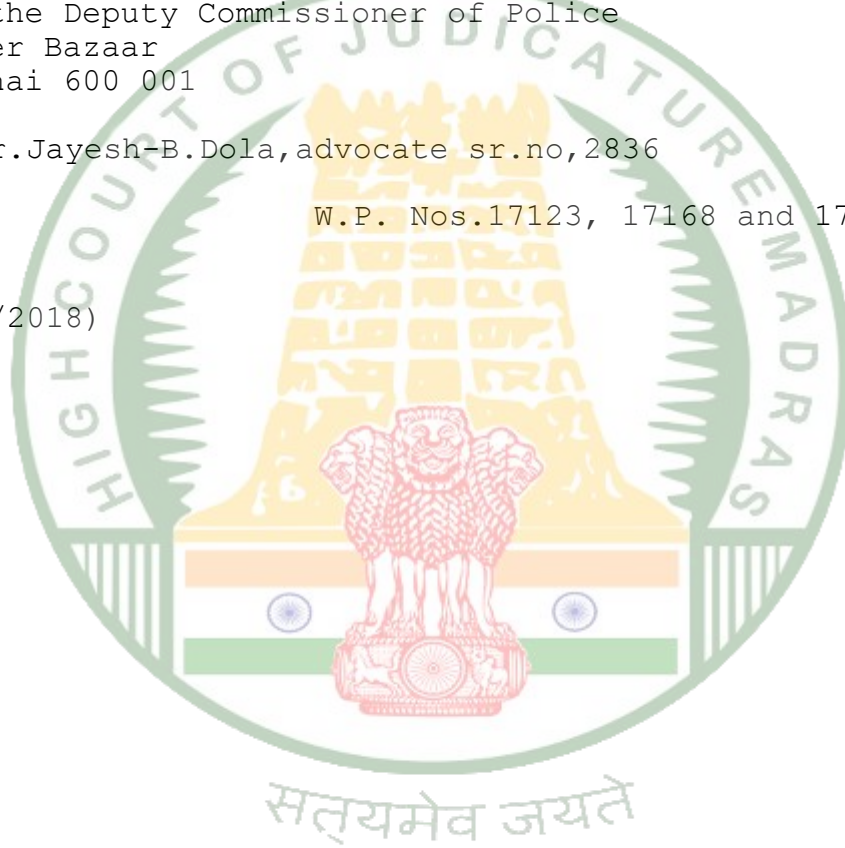
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O/o the Deputy Commissioner of Police  
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+1cc to Mr.Jayesh-B.Dola,advocate sr.no,2836

W.P. Nos.17123, 17168 and 17239 of 2012

co(br)  
GSP(17/02/2018)



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