

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.02.2018

Coram: The Honourable Mr. Justice N. SESHASAYEE

W.P.No.44074 of 2016

Stewards Association in India

Rep. By Bro.Jonathan David,

Elder of the Christian Assembly (Church),

No.4, Jeevan Nagar Main Road,

Adambakkam, Chennai - 600 088.

...Petitioner

Versus

1. The District Collector,
Kancheepuram District,
Kancheepuram.

2. The Special Tahsildhar (Land Acquisition),
Mass Rapid Transit System, Phase-II Extn.
Thirumayillai Railway Station,
Mylapore, Chennai - 600 004.

3. The Deputy Chief Engineer - I,
Metropolitan Transport Project (Railway - 1),
Southern Railway, Mylapore,
Chennai - 600 004.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a issuance of a Writ of Mandamus directing the respondents, particularly the second respondent to clarify the exact extent of land of petitioner's Church acquired by granting higher compensation in terms of the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and consequentially directing the respondents to spare the Church from acquisition proceedings or provide an alternative accommodation for the Church in the vicinity.

For Petitioner : Mr. R. Thanjan

For Respondents : Mr. Akhil Akbar Ali,
Government Advocate

O R D E R

1.1. The petitioner has come forward with this Writ Petition alleging that he owns a property measuring 3,200 Sq.ft comprised in Old Survey Nos.633, 634 and 635 and correlated to Survey No.66/1 of Adambakkam Village, Chennai. In the said property, there exists a Church in the name of Christian Assembly Church. The petitioner came to know that the property was being acquired for Mass Rapid Transit System (MRTS), Phase-II Extension and that the compensation amount too has been awarded. Challenging

the same, the petitioner has moved this Court in W.P.Nos.5450 to 5453 of 2016 and that this Court Vide its order dated 15.02.2016, had quashed the interim award passed by the Special Tahsildar (Land Acquisition) dated 15.09.2014 and further directed the Land Acquisition Authority to pass an award in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred as "Right to Fair Compensation Act, in brevity).

1.2. While this is pending, the petitioner was still not informed as to the exact extent of his property, which as mentioned earlier is a "Church". Hence, the petitioner has come forward with the present petition for issuing a Writ of Mandamus directing the respondents to provide details of the extent of property acquired within the Church and for further relief in terms of the Right to Fair Compensation Act, for which, they have already obtained an order from this Court in W.P.No.27530 of 2014.

2. The learned counsel for the petitioner submitted that the entire 3,200 Sq.ft, is fully built up and is occupied by the Church and this is in existence for more than 20 years and that the proposed acquisition will entirely endanger the very existence of the Church, and it is in its anxiety it wants to obtain information about the extent of property covered by the acquisition. As the said information was not forthcoming, the petitioner is left with no option but to approach this Court, argued the learned counsel. He further added that the petitioner is also entitled to compensation in terms of the provisions of Right to Fair Compensation Act.

3. Mr.Akhil Akbar Ali, the learned Government Advocate appearing for the respondents. The second respondent has filed the counter affidavit, in which, it is indicated that the entire Church is notified for acquisition. He also indicated that in paragraph Nos.5 to 7 of the counter affidavit, that the compensation was originally determined in Award No.5/2014 dated 15.09.2014 and the said amount is deposited under Section 30 and 31(2) of the Land Acquisition Act, 1894. It is further averred that the additional compensation in terms of the Right to Fair Compensation Act has also been passed in Award No.1/16 dated 20.09.2016 pursuant to the direction given by this Court in W.P.Nos.5450 to 5453 of 2016 dated 15.02.2016 and 80% of the compensation is ready to be disbursed. Further, he adds that the petitioner's share in the award amount could not be quantified since they have not produced necessary documents in order for the Land Acquisition Authority to quantify it.

4.1. The prayer of the petitioner has two parts:

- a) To obtain information as to the extent of property proposed to be acquired within the Church.
- b) The mode or the manner of quantifying the compensation and other benefits to which the petitioner is entitled to.

4.2. As regards the first point, it is a matter for which the petitioner need not has moved this Court, since it could have obtained the information under the Right to Information Act at a lesser cost. However, in the counter affidavit filed by the respondents, it is made clear that the Church, which implies the entire 3,200 Sq.ft where it stands is acquired by the Government and therefore the information, petitioner sought is now provided through the counter affidavit.

4.3. As to the second point touching on passing the award is concerned, an Order has already been passed by this Court in W.P.Nos.5450 to 5453 of 2016 dated 15.02.2016 and therefore, there is no need for this Court to reiterate the same Order, unless there is any need to clarify any aspect. The learned counsel for the petitioner brought to the notice of the Court that in the communication dated 18.10.2016, the necessary sale deed under which petitioner claims title has already been made available to the Tahsildar concerned.

5. The learned counsel for the petitioner made a fervent plea that the petitioner may be allotted an alternate site in order it might construct a Church. Plainly, this is beyond the scope of this petition.

6. Effectively both the points raised by the petitioner do not survive for consideration in this proceeding. If however, the petitioner feels aggrieved by the amount of compensation awarded, he may pursue such the legal remedies as are available to him. On his prayer to have an alternate site allotted to him, the petitioner may approach the District Collector with such necessary representation, which when done, may consider and dispose of as per law and on merit.

7. Accordingly, this Writ Petition is disposed of accordingly. No costs.

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Sd/-

Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

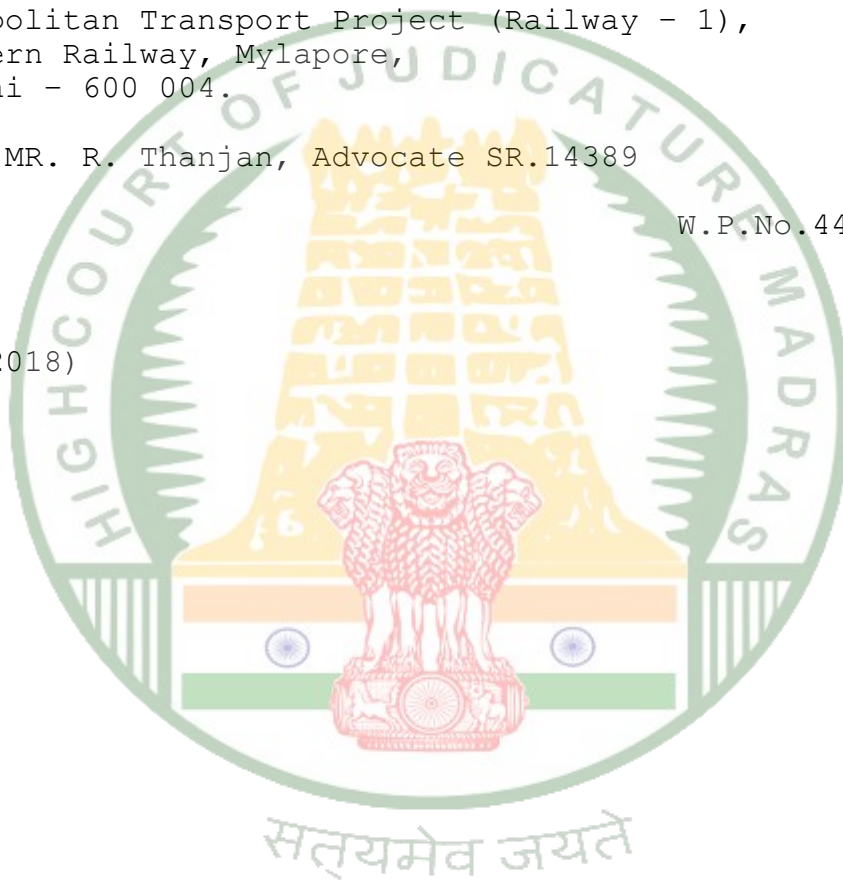
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To

1. The District Collector,
Kancheepuram District,
Kancheepuram.
 2. The Special Tahsildhar (Land Acquisition),
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- + 1 cc to MR. R. Thanjan, Advocate SR.14389

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PA(CO)
EU(10/04/2018)



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