

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2018

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.30004 of 2018

and

W.M.P.Nos.35014 & 35015 of 2018

R.Mahendran

...Petitioner

Vs.

1.The District Collector,
Kanchipuram District,
Kanchipuram.

2.The Revenue Divisional Officer cum
Land Acquisition Officer,
Chengalpet, Kanchipuram District.

3.The Assistant Divisional Engineer,
Construction and Maintenance,
Highways Department,
Chengalpet Sub Division,
Kancheepuram District.

4.A.Sethurathnam

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of certiorarified mandamus to call for the records of the 3rd respondent made in his proceedings dated 31.10.2018 said to have been under Section 28 (2) (ii) of the Tamil Nadu Highways Act, 2001 in respect of the petitioner's land in Survey No.343/2A measuring acres 0.03.5 cents out of 0.07 cents land situate land of Vadanemili Village, Thiruporur Taluk, Kanchipuram District and quash the same and consequently, direct the respondents 1 to 3 to reconvey the said land mentioned above to the petitioner.

For Petitioner : Mr.S.Silambanan, Senior Counsel
for Mr.A.S.Mujibur Rahman

For Respondents: Mr.V.Jayaprakash Narayanan,
Government Pleader (I/C) (R1 to R3)
Mr.P.Wilson, Senior Counsel
for Mr.G.Sankaran (R4)

O R D E R

(Order of the Court made by M.DURAISWAMY,J.)

The petitioner has filed the above Writ Petition to issue a Writ of certiorarified mandamus to call for the records of the 3rd respondent made in his proceedings dated 31.10.2018 said to have been under Section 28 (2) (ii) of the Tamil Nadu Highways Act, 2001 in respect of the petitioner's land in Survey No.343/2A measuring 0.03.5 cents out of 0.07 cents situate in Vadanemili Village, Thiruporur Taluk, Kanchipuram District and to quash the same and consequently, to direct the respondents 1 to 3 to re-convey the said land.

2.It is the case of the petitioner that he is in absolute possession and enjoyment of the land in Survey No.343/2A and that the Highway Authorities took physical possession of 3.5 cents out of 7 cents of land and in the remaining 3.5 cents of land, the petitioner has put up construction. The petitioner purchased the property measuring an extent of 0.07 cents through a registered Sale Deed dated 30.05.2007. The petitioner has also filed a Writ Petition in W.P.No.3074 of 2014 and this Court, by order dated 12.01.2017, directed the 1st respondent to conduct enquiry in respect of the Survey No.343/2A. The petitioner also contended that though the Award was passed on 30.03.1995, no compensation has been paid to the land owners so far. Therefore, according to the petitioner, the entire land acquisition proceedings have been vitiated as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

3.It is pertinent to note that the land was acquired under the Tamil Nadu Highways Act, 2001 and not under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Therefore, the provisions of Section 24(2) of the Act 2013 is not applicable. From the above said facts, it is clear that though the land was acquired in the year 1995 and an Award was also passed on 30.03.1995, the petitioner has purchased the land in Survey No.343/2A and also put up construction in the said land only on 30.05.2007. Since the petitioner has put up construction after

the completion of the acquisition proceedings, the 3rd respondent has rightly issued the impugned notice dated 31.10.2018 for removal of encroachment. The issuance of notice by the 3rd respondent for removing the encroachment is proper. We do not find any error or irregularity in the order passed by the 3rd respondent. The Writ Petition is devoid of merits and the same is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

va

To

- 1.The District Collector,
Kanchipuram District, Kanchipuram.
- 2.The Revenue Divisional Officer cum
Land Acquisition Officer,
Chengalpet, Kanchipuram District.
- 3.The Assistant Divisional Engineer,
Construction and Maintenance,
Highways Department,
Chengalpet Sub Division,
Kancheepuram District.

+1cc to Mr.G.Sankaran, Advocate, S.R.No. 82145
+1cc to the Government Pleader, S.R.No. 82224

W.P. No.30004 of 2018 and
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AK (CO)
GN (18/12/2018)

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