

In the High Court of Judicature at Madras

Dated : 25.1.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mr.Justice N.SATHISH KUMAR

Writ Appeal No.30 of 2019

Mr.S.Vasu

....Appellant

Vs

1.The State of Tamil Nadu, rep.
By Secretary to Government,
Revenue Department, Fort St.
George, Chennai-9.

2.The District Collector, Kanchipuram
District, Kanchipuram.

3.The Special Tahsildar, Land
Acquisition, ORR Project,
CMDA, Koyambedu, Chennai-92.

4.The Member Secretary, CMDA,
Thalamuthu Natarajan Village,
Egmore, Chennai-8.

...Respondents

APPEAL under Clause 15 of the Letters Patent against the order dated

11.10.2018 made in WP.No.26692 of 2018.

For Appellant :

Mr.G.Poonkundran

For Respondents 1 to 3 :

Mr.K.Ravikumar, AGP

Judgment was delivered by T.S.SIVAGNANAM,J

We have heard the learned counsel for the appellant and the learned

Additional Government Pleader accepting notice for respondents 1 to 3.

2. This writ appeal is filed by the appellant - writ petitioner challenging the order passed by the learned Single Judge dated 11.10.2018 in WP.No. 26692 of 2018.

3. The writ petition was filed by the appellant to issue a Writ of Declaration declaring the entire land acquisition proceedings initiated by the third respondent culminating in the award dated 25.8.2003 in respect of the lands owned by the appellant as having lapsed in view of Section 24(2) of the Central Act 30 of 2013. The writ petition was dismissed at the admission stage on the ground that the purpose, for which, the lands were acquired, has been fulfilled in as much as the outer ring road has already been formed. Further, the learned Single Judge held that there was no record produced to show that the land in question is in possession of the appellant and that since there was no record to show that the compensation had been paid to the appellant, the appellant wanted the Court to presume that no compensation was paid in respect of the disputed lands within the time stipulated. The learned Single Judge also held that without even a representation, the appellant approached this Court and that there was no ground made out to grant a declaratory relief without even minimum facts required to be considered in the case.

4. It is brought to our notice by the learned counsel for the appellant that a batch of 48 writ petitions is pending wherein identical relief has been sought for, that the earliest of the writ petitions was filed during the year 2013 and that very recently, a writ petition in W.P.No.724 of 2019 has been entertained and an order of interim injunction has also been granted by a

learned Single Judge on 09.1.2019.

5. The crucial question would be as to whether the appellant is entitled to make a claim under Section 24(2) of the said Act. Secondly, the question would be as to whether the compensation as awarded was paid to the appellant or deposited before the Civil Court. Thirdly, the question would be as to the effect of the proceedings under the Urban Land Ceiling Act on the subject land. So far as possession is concerned, admittedly, the road has already been formed and therefore, the learned Single Judge rightly observed that there was no record to show that the appellant is in possession of the land. However, the crucial aspect, which is required to be examined, is with regard to payment of compensation.

6. In our considered view, since a batch of cases is pending, it is necessary that a counter affidavit is to be filed by the respondents in the writ petition. Apart from that, in the instant case, the appellant had not placed full facts before the learned Single Judge and in all probabilities, in other cases, there might not have been full and clear factual exposition. Therefore, we are of the view that the writ petition is to be heard on merits after the respondents file a counter affidavit.

7. Only for such a reason, we are inclined to interfere with the order passed by the learned Single Judge.

8. The learned counsel for the appellant would fairly submit that the appellant has not sought for any interim orders as prayed for in certain other cases.

9. The said submission of the learned counsel for the appellant is

placed on record.

10. For the above reasons, the writ appeal is allowed, the order dated 11.10.2018 is set aside and W.P.No.26692 of 2018 is restored to the file of the learned Single Judge to be tagged along with W.P.Nos.9214 and 9215 of 2015. The learned Single Judge can direct the respondents to file a counter within four weeks. No costs.

25.1.2019

Internet : Yes

To

- 1.The Secretary to Government of Tamil Nadu, Revenue Department, Fort St. George, Chennai-9.
- 2.The District Collector, Kanchipuram District, Kanchipuram.
- 3.The Special Tahsildar, Land Acquisition, ORR Project, CMDA, Koyambedu, Chennai-92.
- 4.The Member Secretary, CMDA, Thalamuthu Natarajan Village, Egmore, Chennai-8.

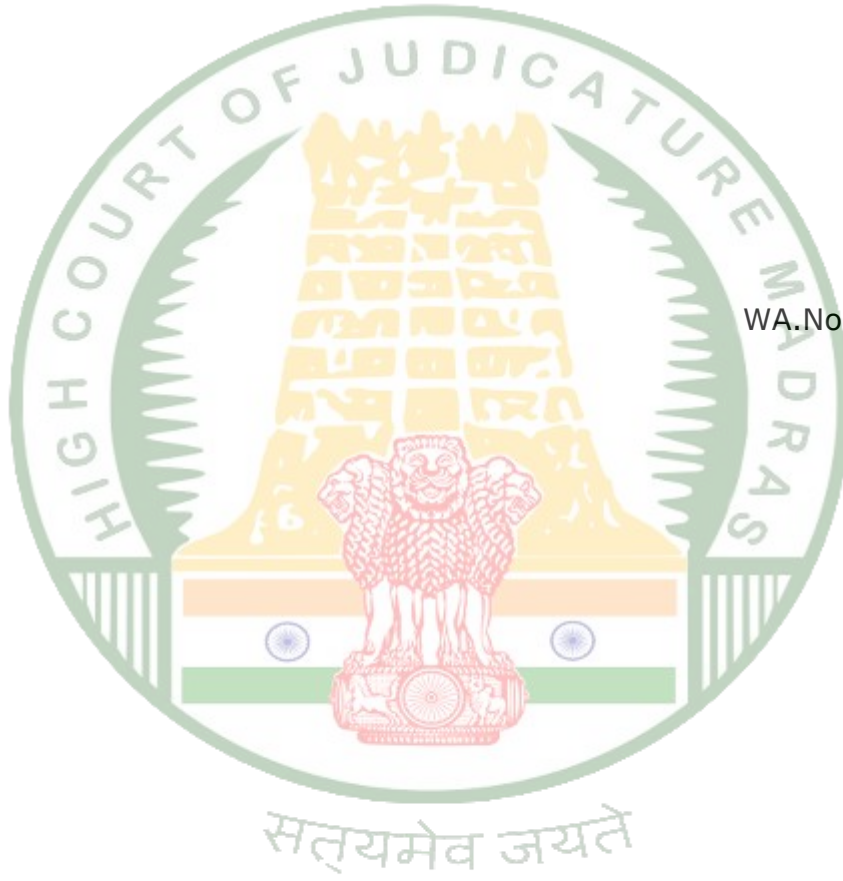
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T.S.SIVAGNANAM,J
AND
N.SATHISH KUMAR,J

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