

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.08.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.11013 of 2011

Dr.S.Kantha Mani

...Petitioner

Vs.

1.The District Collector,
Salem District,
Salem.

2. The Competent Authority and
Special District Revenue Officer (LA N.H.68),
Salem - Ulundurpet Four Lane Project,
Salem.

3. Special Tasildhar (LA),
National Highways - 68,
Attur Unit,
Salem District.

...Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, to direct the respondents herein to make payment of compensation for the land comprised in S.No.296/3 measuring an extend of 89.5 Sq.Mts and Building thereon situated at Puthiragoundanpalayam Village, Athur Taluk, Salem District belonged to the petitioner.

For Petitioner : Mr.V.P.Sengottuvel

For Respondents : Mr.M.Elumalai
Government Advocate.

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O R D E R

The petitioner has filed this Writ Petition, to issue a writ of Mandamus, directing the respondents herein to make payment of compensation for the land belonging to the petitioner comprised in S.No.296/3 measuring an extent of 89.5 Sq.Mts and Building thereon situated at Puthiragoundanpalayam Village, Athur Taluk, Salem District.

2. The case of the petitioner is that the petitioner's husband Dr.S.Ramesh Dhanapal purchased a Vacant site measuring an extent of 954 Sq.ft. (89.5 Sq.Mts) comprised in New Survey No. 296/3 (Natham Survey No.127/1) situated at Puthiragoundanpalayam Village, Athur Taluk, Salem District and the Registration District of Salem East for valuable consideration from one Mr.K.Perumal, Son of Kurruppan and 5 others under a registered Sale Deed dated 29.06.2001 bearing Doct.No.1183/2001 on the file of SRO, Pethanaickenpalayam.

3. The learned counsel appearing for the petitioner would submit that the Head Quarters Deputy Tahsildhar, Attur, carried out mutation of revenue records in its order in TK 6 II 290/01 dated 13.09.2011 in Patta No.137 in the name of Dr.S.Ramesh Dhanapal. It is submitted that the above said site is bounded on one side by National Highways No.68 and on the other side by another road and is situated in a prime area of Attur Town. It is submitted that the said site is a potential site for any commercial venture and in view of its location, it has got a very high land value.

4. The learned counsel appearing for the petitioner would further submit that the said Dr.S.Ramesh Dhanapal sold the said land to his wife Dr.S.Kantha Mani, the petitioner herein under a sale deed dated 24.06.2002 bearing Doct.No.1050/2002 on the file of SRO, Pethanickenpalayam. It is submitted that the petitioner herein and her husband Dr.S.Ramesh Dhanapal constructed a building thereon and they have been in absolute possession and enjoyment of the above said property.

5. It is also submitted that when that being the position, the petitioner recently came to know that the 2nd respondent herein issued a Notification under Sec.3 G(3) of the National Highways Act, 1956 vide Na.Ka.244/2009 dated 26.07.2010 for acquisition of several lands including the petitioner's Land and Building for public purpose namely for formation of Four Way Lane, National Highway No.68 in between Salem and Ulundurpet. It is submitted that even though the Revenue records relating to Survey No. 296/3 measuring an extent of 89.5 Sq.Mts stands in the name of Dr.S.Ramesh Dhanapal in Patta No.137 with effect from 13.09.2001, the Notification came to be issued on 26.07.2010. It is submitted that the respondents herein without properly verifying the revenue records had wrongly notified the said land in the name of Perumal, the vendor of Dr.S.Ramesh Dhanapal who sold the property for valuable consideration as early as on 29.06.2001.

6. The learned Additional Government Pleader would submit that the Land Acquisition being the issue in the writ petition, the award was passed on 28.09.2010. The compensation was paid on

23.01.2011. Notices were sent to one Perumal, Son of Karuppan since he was shown as owner of the land in question. Further all the documents relating to the superstructure were in the name of the said Perumal, S/o.Karuppan. When inspection was done for assessing the value of the Land and building the said Perumal was residing there. The House Tax Receipt, E.B. Bill, Ration Card, Water Tax Receipt etc. were all in the name of the said Perumal. On verification, it was found that the superstructure was built during the year 1985.

7. Considering the facts and circumstances, the petitioner's husband converted the property in the name of the petitioner, this Court directs the respondents to pay the compensation for the land in question within a period of eight weeks from the date of receipt of a copy of this order and thereafter liberty is granted to the petitioner to file a fresh application under Section 3 G(5) of the Act for enhancement of compensation before the District Collector within a period of four weeks from the date of receipt of a copy of this order.

8. Accordingly, the present writ petition stands allowed.
No costs.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

kmm
To

- 1.The District Collector,
Salem District, Salem.
2. The Competent Authority and
Special District Revenue Officer (LA N.H.68),
Salem - Ulundurpet Four Lane Project,
Salem.
3. Special Tasildhar (LA),
National Highways - 68,
Attur Unit, Salem District.

+1cc to Mr.V.P.Sengottuvel, Advocate SR.No.74203

+1cc to Government Pleader SR.No.75594

W.P.No. 11013 of 2011

PM(CO)
GMY(25/11/2019)