



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No.36145 of 2007
and M.P.No.1 of 2007

K.Amudha
Petitioner

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Vs

1.The District Collector
Tiruvallur District
Tiruvallur.

2.The Land Acquisition Officer,
(Special Tahsildar) (L.A)
Urban Development Scheme/
Chennai City Water Ways Scheme
Metro Water Scheme
Taluk Office,
Ambattur
Chennai-600 053

3.The Revenue Divisional Officer
Taluk Office Road
Ponneri-601 204
Tiruvallur District

..

Respondents

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records of the respondents herein, comprised in the 2nd respondent's proceedings No.Na.Ka.122/2007/A dated 29.08.2007 consequently R.C.No.122/2007/A dated 18.09.2007 and quash the same as against the principles of natural justice and consequently directing the respondents herein to complete the demarcation work of specific extent of 220 sq.ft., of land retained as on date by the petitioner even after acquisition, and issue patta for the same in S.No.109/4A1 and 109/4A2 in Kadirvedu Village, Ambattur Taluk, Tiruvallur District.



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For Petitioner : Mr.G.Thangavel

For Respondents : Mr.M.Elumalai, Govt.Advocate
for R1 to R3.

ORDER

This writ petition is filed challenging the records of the respondents herein, with respect to proceedings in Na.Ka.122/2007/A dated 29.08.2007; R.C.No.122/2007/A dated 18.09.2007 and seeks to quash the same and further seeks direction to the respondents to complete the demarcation work of specific extent of 220 sq.ft., of land retained as on date by the petitioner even after acquisition, and issue patta for the same in S.No.109/4A1 and 109/4A2 in Kadirvedu Village, Ambattur Taluk, Tiruvallur District.

2. It is averred in the writ petition that the petitioner's land in survey No.109/4 admeasuring 2400 sq.ft at Kadhirvedu Village, Ambattur Taluk, Thiruvallur District, was acquired by the 2nd respondent to the extent of 2180 sq.ft., out of 2400 sq.ft. i.e., leaving 220 sq.ft., with the petitioner.

3. According to the petitioner, she made several representations dated 30.12.2004, 06.03.2005, 11.12.2005, 09.04.2006 and 13.11.2006 seeking demarcation and subdividing the remaining extent of 220 sq.ft., in S.No.109/4-A2, stating that the said land is retained by her.

4. Since there was no response for the above representations, petitioner made further representation on 23.02.2007 seeking immediate action to measure, demarcate and sub divide on record in respect of the unacquired extent of 220 sq.ft., which is stated to have been in her continuous possession from the date of purchase i.e., 15.09.1987.

5. The 2nd respondent has sent a reply dated 02.03.2007 stating they could not carry out the sub division work. However, the petitioner's application for the enhanced compensation under Section 18 of the Land Acquisition Act was sent to Sub Court, Ponneri and the Sub-Court has assigned LAOP.No.33 of 2006.

6. The petitioner seeking sub division of her property measuring 220 sq.ft., and separate patta, and for a direction to the competent authority, filed W.P.No.15030/2007. This court



passed order dated 30.07.2007 to consider the prayer of the petitioner. Accordingly, the 2nd respondent passed the impugned proceedings in Na.Ka.No.122/2007/A dated 29.08.2007, stating further sub division is not possible and thus rejected the petitioner's request.

7. Aggrieved by the impugned order dated 29.08.2007, the petitioner has filed the present writ petition.

8. According to the learned counsel for the petitioner, subsequent to the completion of acquisition proceedings, petitioner is still in possession of 220 sq.ft., therefore, the petitioner made her request for demarcation of the land in her possession. But the authority, without considering the same, rejected the said request.

9. According to the learned counsel for the petitioner, the land boundary of the said land which is stated to be in possession of the petitioner was demarcated and issued the patta in favour of the petitioner survey no.481/1, 481/2, to an extent of 220 sq.ft., therefore, the impugned order is liable to be quashed.

10. The learned Government Advocate appearing for respondents 1 to 3 filed counter affidavit and reiterated the averments made therein. It is stated that the utility of acquired land is below 2400 sq.ft. but the extent left out is less than the minimum decimal of 0.00.5 hectares as per the existing survey. The extent of land is being measured in terms of hectares which is otherwise called square meters and not in terms of square feet as expected by the petitioner. The minimum extent of 0.00.5 are, require 538 square feet and anything less than this extent is negligible and no subdivision can be effected. It is further stated that the award was passed for an extent of 0.02.0 hectares and not for 2180 sq.ft., as mentioned by the petitioner. Regarding the utility of lands, it is stated by the 2nd respondent that the PWD authorities have formed channel by utilizing the acquired lands and even, if any portion of land left out of utility cannot be subdivided as claimed by the petitioner nor patta can be issued.

11. It is further pointed out in the counter affidavit that the petitioner was paid compensation for the entire portion of land possessed by her and therefore, she has no locus standi to claim any further relief by demarcation.



12. The 2nd respondent has also made it clear that the petitioner's land notified for acquisition is 0.02.0 hectares and the said plot involves two survey numbers i.e, 109/4A1 and 109/4A2 and were notified accordingly. The minimum extent measurable is 0.00.5 hectare which is equivalent to 538 sq.ft., and anything less than this extent is available, the same cannot be measured in view of the survey and Boundaries Act and Rules in force.

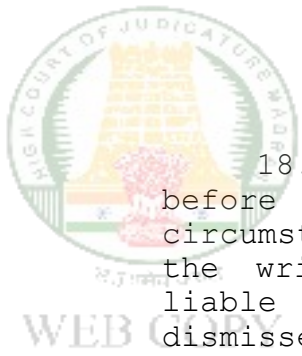
13. With regard to contentions of the petitioner for issue of patta, the counter affidavit states that the request of the petitioner can be considered only when the petitioner owns atleast 500 sq.ft free from acquisition and the request for patta less than the required extent is therefore, turned down by the Officer concerned.

14. Heard both sides.

15. A perusal of entire materials available on record shows that the writ petitioner has not placed any documents of revenue records in the typed set of papers filed in support of the writ petition, to substantiate her claim regarding demarcation of the land to an extent of 220 sq.ft.

16. Further, the averments in the affidavit filed in support of the writ petition and the statement made in counter clearly shows that the petitioner's land was acquired by the respondent department and after completing the entire acquisition proceedings, the petitioner also received the compensation amount from the respondent department and thereafter only, the petitioner made representations for demarcation of the boundary in respect of 220 sq.ft of land stating that the same is in her possession.

17. In view of the stand taken by the 2nd respondent in the counter affidavit and also considering the fact that the petitioner has not filed any proof of documents to show her bona fide claim, and in the light of decision of the Honourable Supreme Court in the case of Gunwant Kaur v. Municipal Committee, Bhatinda - 1969 (3) SCC 769 where dealing with such a situation of disputed questions of fact in a writ petition, held that High Court will not determine disputed question of fact in a writ petition.



18. Therefore, the remedy of the writ petitioner is only before the appropriate forum to seek her relief. In such circumstances, I have no hesitation to reject the contention of the writ petitioner and consequently, the writ petition is liable to be dismissed. Accordingly, the writ petition is dismissed. No costs.

Sd/-
Asst.Registrar (CS V)

/true copy/
Sub Asst. Registrar

nvsri

To

1.The District Collector
Tiruvallur District, Tiruvallur.

2.The Land Acquisition Officer,
(Special Tahsildar) (L.A)
Urban Development Scheme/
Chennai City Water Ways Scheme
Metro Water Scheme, Taluk Office, Ambattur
Chennai-600 053

3.The Revenue Divisional Officer
Taluk Office Road Ponneri-601 204
Tiruvallur District

+1 cc to Mr.G.Thangavel Advocate sr87540
+1 cc to M/s.Government Pleader sr87792

WP.36145 of 2007

bs(co)
aa21/01/2020