

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2019

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.18605, 18606 & 18753
and

M.P.Nos.1 & 2 of 2008 & M.P.No.1 & 1 of 2009

1.K.Palanisamy
2.M.Subramaniam
3.R.Eswaran
4.M.Gopalakrishnan ...Petitioners in W.P.18753/2008

Saraswathy ...Petitioner in W.P.18605/2008

Shantha Kumari ...Petitioner in W.P.18606/2008

Vs.

1.Union of India
Rep. by its Secretary to Government
Ministry of Shipping and Surface Road
Transport and Highways
Vignan Bhavan
New Delhi

2.The Competent Authority (Land Acquisition)
Cum District Revenue Officer
Highways Department
Coimbatore

3.The District Revenue Officer
Coimbatore

4.The Revenue Divisional Officer
Tirupur

5.The Tahsildar
Palladam, Coimbatore

6.The Project Officer
National Highways Authority of India
New No.6, Old No.46
First Floor, 3rd Main Road
Ponnagar, Trichy-1

..Respondents in W.P.18753 & 18605/2008

1.Union of India
Rep. by its Secretary to Government
Ministry of Shipping and Surface
Road Transport and Highways
Vignan Bhavan
New Delhi

2.The Special Tahsildar Land Acquisition
Highways Department cum District Revenue Officer
Coimbatore

3.The District Revenue Officer
Coimbatore

4.The Revenue Divisional Officer
Tirupur

5.The Tahsildar
Palladam, Coimbatore

6.The Project Officer
National Highways Authority of India
New No.6, Old No.46
First Floor, 3rd Main Road
Ponnagar, Trichy-1

...Respondents in W.P.18606/2008

Common Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records pertaining to the 2nd respondent in his proceedings made in Na.Ka.No.28943/2006/F7 dated 09.05.2008 published in 'Daily Thanthi' dated 16.05.2008 and the consequent proceedings in Na.Ka.No.28943/2006 C 7 dated 09.07.2008 published in 'Daily Thanthi' dated 16.07.2008 and consequently forbearing the respondents, their men, agents or subordinates in any way interfering with the peaceful possession and enjoyment of the property of the petitioner property in S.No.259/1 and 260 in Palladam Taluk, Coimbatore District.

For Petitioners in all W.Ps.: Mr.Rajinish Pathiyil

For Respondents in all W.Ps.: Dr.G.Babu, CGSC for R1

Mr.M.Elumalai, G.A. For R2-R5

M/s.P.Wilson for R6

COMMON ORDER

The petitioners have filed these writ petitions to call for the records pertaining to the 2nd respondent in his proceedings

made in Na.Ka.No.28943/2006/F7 dated 09.05.2008 published in 'Daily Thanthi' dated 16.05.2008 and the consequent proceedings in Na.Ka.No.28943/2006 C 7 dated 09.07.2008 published in 'Daily Thanthi' dated 16.07.2008 and consequently forbearing the respondents, their men, agents or subordinates in any way interfering with the peaceful possession and enjoyment of the property of the petitioner property in S.No.259/1 and 260 in Palladam Taluk, Coimbatore District.

2.The petitioners are owning the land and building measuring an extent of 0.04 cents situate in S.F.No.259/1 and 260 part in Palladam Village, Coimbatore District. As far as S.F.No.259/1 is concerned, it has been classified as Village Natham from time immemorial. Village Natham is nothing but a private dwellers property land is not the communal property. The petitioners continued to be the present owners and have been enjoying the property as an absolute owner of the property. As far as S.No.260 is concerned, originally it belonged to one Neer Chand Dev Chand Company, who then sold it to Tamil Evangelical Lutheran Church as early as 1914 and since then the Church was in possession and enjoyment of the property. The petitioners have purchased the land in Survey No.260 in the year 1991 through their predecessors in title from Tamil Evangelical Lutheran Church to an extent of 3 cents and 8 feet passage. In respect of S.No.259/1, the petitioners have obtained patta in their names and they have been in possession and enjoyment of the same even prior to 1991 as the owners of the property. The petitioners after obtaining necessary permission from the Palladam Town Panchayat, constructed residence and a shop for conducting a business therein. Thus, the petitioners and their predecessors were in title and in actual possession of the property for more than a century. Subsequently, in the year 1993, the Revenue Divisional Officer, Tiruppur, without application of mind vide his proceedings in Na.Ka.No.1166-99A2 dated 31.08.2001 cancelled the patta on the ground that the lands are classified as Natham and the same can be used for housing purpose and the usage by the petitioners for commercial purpose is not correct. Challenging the above said cancellation order, the petitioners filed W.P.No.24408 of 2002 and this Court was pleased to dispose of the Writ Petition to avail an alternative remedy of revision before the Divisional Revenue Officer, Coimbatore and to file a revision petition within 15 days. Thereafter, the petitioners filed an appeal before the District Revenue Officer. The District Revenue Office also without applying his mind disposed of the appeal on 24.01.2003 and the same was served on the petitioners only on 24.06.2003. Aggrieved against the said order, the petitioners preferred an appeal before the Special Commissioner and Commissioner of Land Administration, Chepauk, Chennai and when the appeal is pending before the authorities concerned, the respondents have initiated

the land acquisition proceedings under the National Highways Act. Challenging the said acquisition notification, the present writ petition has been filed.

3.The learned counsel appearing for the petitioners would submit that the title with regard to the patta granted by the original authorities was challenged before the Special Commissioner and Commissioner of Land Administration, Chepauk, Chennai, pending appeal, the acquisition proceedings were initiated. While this Court entertaining the writ petition, granted interim stay of dispossession and the petitioner was vested with possession and enjoyment of the property. Further, the Highways Authorities have also taken an alternative by-pass route to the acquired land and the petitioners' land is no longer required for acquisition. However, it is sufficient that this court issues a direction to the Special Commissioner and Commissioner of Land Administration, Chepauk, Chennai to dispose of the petitioners' appeal within the time frame as this court deems fit in accordance with law.

4.The learned counsel appearing for the respondents would submit that the petitioners have challenged the acquisition proceedings in these writ petitions. He would further submit that once the land is acquired and notification for declaration under 3(G) and 3(D) is issued, the land is vested with the Government and the petitioners have no right to seek for possession. Even in the present case, the petitioners have possessed the title only based on the patta granted by the original authority and the same was subsequently cancelled by the appellate authority. Mere pending of the appeal before the Special Commissioner and Commissioner of Land Administration, Chepauk, Chennai, the petitioners are not entitled for the claim and they have no right to agitate the notice published as per the Act. Accordingly, prays for dismissal of these petitions.

5.On a perusal of records, it reveals, that the petitioners have no right over the property. The petitioners have challenged the order passed by the National Highways Authority simply on the ground that the patta was initially granted by revenue authority and same was subsequently cancelled by the Revenue Divisional Officer, Tiruppur in the year 2001. However, notification proceedings made in Na.Ka.No.28943/2006/F7 dated 09.05.2008 published in "Daily Thanthi" on 16.05.2008 is much after the decision of the Revenue Divisional Officer. On the date of said publication, the petitioners are not the owners of the land. Hence, the prayer sought for by the petitioners cannot be granted.

6.These writ petitions stand dismissed accordingly. However, liberty is granted to the petitioners to pursue

the remedy after the conclusion of the appeal pending before the Special Commissioner and Commissioner of Land Administration, Chepauk, Chennai. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

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To

Sub Assistant Registrar

1.Secretary to Government, Union of India
Ministry of Shipping and Surface Road Transport and Highways
Vignan Bhavan, New Delhi

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Cum District Revenue Officer
Highways Department, Coimbatore

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7.The Special Tahsildar Land Acquisition
Highways Department cum District Revenue Officer
Coimbatore

+2 ccs to Mr.Rajnish Pathiyil, Advocate, S.R.No.49572
+1 cc to M/s.P.Wilson Associates, Advocate, S.R.No.49168
+2 cc to Dr.G.Babu, CGSC, Advocate, **S.R.No.48962**
+1 cc to the Government Pleader, S.R.No.50145, 50146

W.P.Nos.18605, 18606 & 18753
and

M.P.Nos.1 & 2 of 2008
& M.P.No.1 & 1 of 2009

PVS (CO)
SSM(31/07/2019)
SSM(21/08/2019)