

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2019

CORAM

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.21029 of 2008
and
M.P.Nos.1 and 2 of 2008

Ansha

...Petitioner

Vs.

1. The State Government of Tamilnadu
rep.by the Secretary to Government
Highways Department, Secretariat,
Fort Saint George, Chennai-9.

2. The Chief Engineer and Project Director,
Tamilnadu Road Sector Project,
48, Dr.Muthulakshmi Salai,
II Floor, Housing Board Complex,
Adyar, Chennai 600 020.

3. The Divisional Engineer,
Tamilnadu Road Sector Project,
TANCOF Buildings,
Anna Salai near Railway Gate,
Thiruvannamalai.

4. The District Collector,
Thiruvannamalai District,
Thiruvannamalai.

5. The Special Thasildhar (LA)
Tamilnadu Road Sector Project,
TANCOF Buildings,
Dindivanam Road,
Thiruvannamalai.

... Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, forbearing the respondents from proceedings further to acquire the property situated at Survey Number 23, Munurmangalam Village, Chengam Taluk, Thiruvannamalai District in pursuance of the alleged sale deed dated 23.05.2005 bearing Document No.1849/2005 without following the mandatory requirements prescribed under the statutes for acquiring the lands.

For Petitioner : Mr.G.Rajan

For Respondents : Mr.M.Elumalai

ORDER

The writ petition has been filed by the petitioner for issuance of a writ of Mandamus, forbearing the respondents from proceedings further to acquire the property situated at Survey Number 23, Munurmangalam Village, Chengam Taluk, Thiruvannamalai District in pursuance of the alleged sale deed dated 23.05.2005 bearing Document No.1849/2005 without following the mandatory requirements prescribed under the statutes for acquiring the lands.

2.The learned counsel for the petitioner would submit that the property to the extent of 2.98 acres including a rice mill situated at survey No.23, Munurmangalam Village, Chengam Taluk,

Thiruvannamalai District was originally owned and possessed by one Gopal. The said Gopal executed a sale deed in favour of the petitioner by way of registered sale deed dated 30.07.1997 for a valid sale consideration of Rs.2,37,000/-. Subsequently, the petitioner and her husband purchased the 0.06 cents from a registered sale deed bearing doc.No.1713/2008 dated 21.04.2008. When that being so, the respondents 6 & 7 herein attempted to disconnect the electricity to the rice mill. When the same was protested, the petitioner was informed that their property was acquired by the Tamilnadu Highways Department under Tamilnadu Highways Act, 2001. No notice was received as mandated under the Highways Act 2001 and no notification was also issued inviting objection at any stage of acquisition proceedings. The petitioner's husband said to have executed a sale deed dated 23.05.2005 in favour of the Director, Tamilnadu Road Development Scheme for Rs.2,06,347/- in Doc.No.1849 of 2005, but when enquired, the petitioner's husband informed that he has not executed any such registered sale deed in favour of anyone including the respondents herein but admitted that he received the amount of Rs.2,06,347/- from the 3rd respondent. In the said sale deed it is seen that the entire property in Survey No.23 has been sold to the Highways Department. The petitioner's husband is only the joint

owner and that too only to an extent of 0.06 cents including the rice mill and machineries in Survey No.23. He cannot alienate the entire property situated at survey No.23 on his own.

3.The learned counsel appearing for the petitioner would further produce two sale deeds before this Court, which indicates clearly that the petitioner has purchased 2.92 acres. Her husband has purchased only 0.06 cents jointly with the petitioner. Therefore, he would submit that the acquisition proceedings initiated by the Highways Department is illegal, arbitrary, unreasonable and without following the mandatory provisions of the Tamilnadu Highways Act 2001. Hence, this petition.

4.The learned Government Advocate, Mr.Elumalai would submit the writ petition itself is not maintainable since no action has been taken in respect of the property owned by the petitioner. Through proper initiation, the respondent has purchased the property from the husband of the petitioner and the respondent is entitled to take any decision of the property. If any threat or notice is issued to the petitioner for acquisition of her property, then, it is open to the petitioner to work out the remedy in the manner known to law before

the competent forum. Accordingly, prays for a dismissal of this petition.

5. On a perusal of the records, it is clear that the petitioner and her husband purchased the above said properties by way of two sale deeds. However, the records produced by the petitioner shows that the 3rd respondent has purchased the entire property in Survey No.23, from her husband in favour of the State. Further, the petitioner did not produce any records to show that the respondent authority have tried to acquire the property owned by the petitioner. In the absence of the proof, mere apprehension will not give any right to the petitioner to approach this court under Article 226.

6. In view of the above, this Court is not inclined to entertain this writ petition, accordingly, the writ petition stands dismissed. However, liberty is granted to the petitioner to work out the remedy in the manner known to law before the appropriate forum if any acquisition proceedings would be initiated against the property. Consequently, connected miscellaneous petition is closed. No costs.

06.06.2019

kas

M.DHANDAPANI, J.

kas

To

1. The State Government of Tamilnadu
rep.by the Secretary to Government
Highways Department, Secretariat,
Fort Saint George, Chennai-9.
2. The Chief Engineer and Project Director,
Tamilnadu Road Sector Project,
48, Dr.Muthulakshmi Salai,
II Floor, Housing Board Complex,
Adyar, Chennai 600 020.
3. The Divisional Engineer,
Tamilnadu Road Sector Project,
TANCOF Buildings,
Anna Salai near Railway Gate,
Thiruvannamalai.
4. The District Collector,
Thiruvannamalai District,
Thiruvannamalai.
5. The Special Thasildhar (LA)
Tamilnadu Road Sector Project,
TANCOF Buildings,
Dindivanam Road,
Thiruvannamalai.

WEB COPY

W.P.No.21029 of 2008
and
M.P.Nos.1 and 2 of 2008

06.06.2019