

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2019

CORAM

THE HON'BLE Mr.JUSTICE M.DHANDAPANI,J.

W.P.No.24004 of 2008

S.Soundararajan @ Raja

...Petitioner

Vs

1. The Secretary to the Government,
Public Works and High Ways Department
Secretariate, Fort ST.George,
Chennai - 09.
2. The Estate Officer,
Asst. Divisional Engineer,
Highways and Rural Works,
382, Anna Salai,
Chennai- 600 015.
3. The Special Dy. Collector,
Land Acquisition,
IT Highways Express Road Project,
Old Mahabalipuram Road
Chennai.
4. The Tahsildar,
Tambaram Taluk Office,
G.S.T.Road, Tambaram,
Chennai - 600 045.
5. The Tahsildar,
Land Acquisition,
Tambaram Taluk Office,
G.S.T.Road, Tamabaram,
Chennai - 600 045.
6. Tamil Nadu Road Development
Company Ltd.,
Rep by its Director - in- charge,
Pantheon Plaza, II Floor,
Pantheon road, Egmore,
Chennai - 600 005.

... Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents from interfering with petitioner's possession and enjoyment of his property situated at 5/414 New No.1114 old Mahalipuram road, Perungudi, Chennai - 96 in S.No.142/1A1A and 142/2 of Pallavakkam village Tambaram Taluk, Kanchipuram District measuring an extent of 2400 Sq.ft bounded on North by vijayan house south by Balaraman house west by road and East by Public purpose land, without due process of law.

For Petitioner : M/s.S.Vaitheeswari

For Respondents : Mr.J.Ramesh, AGP
for R1 to R5
Mr.M.Sivavarthanan
for R6

ORDER

The prayer sought for herein in this Writ Petition is for issuance of a Writ of Mandamus, forbearing the respondent from interfering with petitioner's possession and enjoyment of property situated at 5/414 New No.1114 old Mahabalipuram road, perungudi, Chennai - 96 in S.No. 142/1A1A and 142/2 of Pallavakkam Village Tambaram Taluk, Kanchipuram District measuring an extent of 2400 Sq.ft bounded on North by Vijayan house south by Balaraman house west by road and East by Public purpose land, without due process of Law.

2. The case of the petitioner is that originally large extent of lands including S.No.142/1A1A and 142/2 belonged to one Balakrishna pillai. However, he gifted one ground of land in the said field to his servant Andiappa Naicker for the service rendered by him and the said Andiappa Naicker was enjoying the said property.

3. The learned counsel for the petitioner submitted that Andiappa Naicker sold the land to the petitioner by way of sale receipt dated 05.10.1990, and after purchase, the petitioner put up construction with asbestos roofing and he is using the entire land for STD booth, Tea shop, and also carrying on Travels business under the name and style 'Ambika Travels'. The petitioner states that Pallavakkam Panchayat assessed the property and he has also paid the property tax continuously.

4. While being so, the Highways Department issued a notice saying that the petitioner has encroached the Highways road. Therefore, the petitioner filed a civil suit in OS.No.7137 of 1999 and the same was decreed on 27.01.2004 by the learned III Assistant Judge, City Civil Court. However, the officials of the sixth respondent attempted to interfere with the petitioner's possession and enjoyment against the terms of the decree. Therefore, the petitioner filed a Contempt Petition before the learned III Assistant Judge, City Civil Court in IA.No.18983 of 2005 in OS.No.7137 of 1999. The learned Judge arrived at a finding that the petitioner's property is not the subject matter of acquisition and absolved the respondents from the Contempt Petition. The sixth respondent has filed two applications to reject the plaint and the learned XIII Assistant Judge has allowed the application and rejected the plaint. After the said order was passed, the fifth respondent gave a letter to the Police and the authorities without any order copy, only based on this letter attempted to dismantle the structure of the petitioner's property by using Poke line machine. Therefore, the petitioner approached this Court by filing Writ Petition.

5. The learned counsel appearing for the respondents would submit that the learned Judge absolved the respondents from the contempt petition by stating that the petitioner's property is not the subject matter of acquisition. Therefore, the respondents were taking steps for the acquisition of the land of the petitioner. At that time, the petitioner filed Civil Suit and obtained injunction against the respondents. Subsequently, the fifth respondent filed a Civil Revision Petition before this Court and the same was dismissed on 20.08.2008. Thereafter, the sixth respondent has filed two applications in 15677 of 2008 and 15678 of 2008 to reject the plaint and the same were allowed by the learned XIII Assistant Judge vide order dated 25.09.2008. Therefore, with the help of the order, the respondents are proceeding the land acquisition process.

6. However, at this juncture, the learned counsel appearing for the 6th respondent would submit that since the petitioner has filed this writ petition, he may be granted liberty to claim compensation before the appropriate forum.

7. In view of the fact that the Government land has already been taken over by the Highways Department, nothing survives in the present Writ Petition and no further adjudication is required. However, this Court is inclined to grant liberty to the petitioner to workout the necessary remedy before the appropriate forum in the manner known to law for claiming compensation, if he prescribed the Title.

8. Accordingly, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

kmm

To

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+1cc to Mr.M.Sivavarthan, Advocate, S.R.No.49159
+1cc to Mr.S.Sundaresan, Advocate, S.R.No.48444
+1cc to the Government Pleader, S.R.No.49141

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VGII(CO)
CS/14/08/2019