

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2019

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.25492 of 2008
and MP.No.2 of 2008

N.Natrayan

...Petitioner

Versus

1. Secretary to Government,
Municipal Administration and
Water Supply Department,
Fort St.George,
Chennai-600 009.
2. The Special Commissioner and Commissioner
for Land Administration,
Ezhilagam, Chepauk,
Chennai-600 005.
3. The Commissioner,
Municipal Administration,
Chepauk, Chennai-600 005.
4. The District Collector,
Karur District at Karur.
5. The Commissioner,
Karur Municipality,
Karur.

...Respondents

PRAYER:

Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the letter issued by the Commissioner for Municipality, Chepauk, Chennai-600 005 and made in Na.Ka.No.69145/2007/TP3, dated 09.09.2008, the third respondent herein and quash the same and consequently direct the first respondent herein to consider and pass orders for the sale of the property, comprised in T.S.No.344/2, Block No.50, Ward No.1, Chairman Ramanujam Street, Karur Town and District in an extent of 652½ square feet, pursuant to the resolution number 3399, dated 14.11.1991 passed by the fifth respondent

Municipality and pursuant to the various reports sent by the revenue authorities culminating in the Letter No.H1/25512/07, dated 11.09.2007 sent by the second respondent herein to the first respondent, in favour of the petitioner.

For Petitioner : Mr.N.Damodaran

For Respondents : Mr.M.Elumalai,
Government Advocate

O R D E R

This Writ Petition has been filed seeking to quash the order made in Na.Ka.No.69145/2007/TP3, dated 09.09.2008, by the third respondent herein and for further consequential relief.

2.The case of the petitioner is that the petitioner's vendor purchased a property in the year 1971 and subsequently, the petitioner purchased the same in the year 1974 to an extent of 1868 sq.ft. Comprising in S.No.344/1 and 344/2. Subsequently, the petitioner came to know that the 5th respondent viz.,Karur Municipality have acquired the said land in S.No.344/2 for the purpose of formation of the road in the year 1947 itself. According to the petitioner, he purchased the land in the year 1974 comprising in Survey No.344/1 and a part of land in Survey No.344/2. Thereafter, he was in possession and enjoyment of the property. Later, he came to know that some portion of the property, which was under his possession and enjoyment was already acquired by the State for laying road by the fifth respondent. The petitioner has made several representations to re-convey the property in favour of the petitioner. However, it was rejected by the authority and the 3rd respondent hereing have passed an impugned order dated 09.09.2008 directing the local authority to remove the offending encroachments. Challenging the said impugned order, the present writ petition has been filed.

3.Heard Mr.N.Damodaran, learned counsel for the petitioner and Mr.M.Elumalai, learned Government Advocate appearing for the respondents.

4.The learned counsel for the petitioner fairly concedes that there are no previous litigation pending before the appellate authority in this regard.

5.The learned Government Advocate appearing for the respondents would submit that once the lands are acquired under Land Acquisition Act after passing award, the land vests with the Government and it is free from encumbrance. In the present case, the land is acquired by the State in 1947 from the

petitioner's vendor and the vendor already received the compensation. Therefore, the petitioner's occupation is an illegal one and there is also no provision to alienate the property.

6. On perusal of records, it is seen that the disputed property has been acquired by the State for formation of road during the year 1947 itself and the acquisition award has also been passed. Thereafter only, the petitioner's vendor as well as the petitioner has purchased the said property. Therefore, I do not find any illegality or irregularity in the impugned order passed by the 3rd respondent and the petitioner has no authority to alienate the subject property. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Municipal Administration and
Water Supply Department, Fort St. George,
Chennai-600 009.
2. The Special Commissioner and Commissioner
for Land Administration,
Ezhilagam, Chepauk, Chennai-600 005.
3. The Commissioner, Municipal Administration,
Chepauk, Chennai-600 005.
4. The District Collector,
Karur District at Karur.
5. The Commissioner,
Karur Municipality, Karur.

+1cc to Mr.N.Damodaran, Advocate, S.R.No.46881
+1cc to Mr.P.Srinivas, Advocate, S.R.No.46800
+1cc to Government Pleader, in sr.no.47569

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LN(CO)
CS/28/08/2019