

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2019

CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

W.P. 21624 of 2005

V.Sathishkumar

... Petitioner

Vs

1. The District Collector,
Cuddalore District,
Cuddalore.
2. The Revenue Divisional Officer,
Land Acquisition,
Cuddalore.
2. The Executive Engineer,
Villupuram Housing Unit,
98, Mahatma Gandhi Road,
Villupuram.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to refer the proceedings in Award No.7/88, dated 03.08.1988 to the Sub-Court, Cuddalore (Land Acquisition Court), Cuddalore, to fix and pay compensation payable to the petitioner as per law in respect of T.S.No.2332/2, 6435 sq.ft. in Cuddalore, Cuddalore Taluk, Cuddalore

For Petitioner : Mr.R.Gururaj
For Respondents : Mr.M.Elumalai,
Government Pleader

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O R D E R

This Writ Petition has been filed seeking a direction to direct the respondents to refer the proceedings in Award No.7/88 dated 03.08.1988 to the Sub-Court, Cuddalore (Land Acquisition Court), Cuddalore to fix and pay compensation payable to the petitioner as per law.

2. The case of the petitioner is as follows :-

The petitioner's father purchased the property through registered sale deed dated 21.05.1979 bearing T.S.No.2332/2 measuring 6345 sq.ft. and the said vacant site was acquired by the Tamil Nadu Housing Board under the Neighbourhood scheme. The 4(1) notification was published on 17.08.1983. As against the notification, the petitioner's father filed a Writ Petition in W.P.No.11729 of 1989 before this Court and pending Writ Petition, the petitioner's father passed away. Thereafter, the petitioner and his younger brother and mother continued the proceedings as the legal heirs and the said Writ Petition was dismissed on 12.08.1999. Against which, the petitioner has preferred a Writ Appeal in W.A.No.899/2000, which was dismissed. Subsequently, he has preferred appeal before the Hon'ble Apex Court in S.L.P.No.3423/2001 and it was also dismissed on 06.08.2001. In the meanwhile, the adjacent property belonging to one of the neighbour Dr.Apparsundaram was also acquired and challenging the acquisition proceedings, he has filed a Writ Petition in W.P.No.15129/2001 before this Court and the same was also dismissed on the ground that the award was not passed in time. Similarly, the petitioner also filed a Writ Petition in W.P.No.8729 of 2002 to quash the acquisition proceedings on other grounds. However, the said Writ Petition was dismissed. While being so, one V.Subramanian @ Mani, the vendor has raised a dispute and filed a suit and thereafter, he has filed a Second Appeal in S.A.No.1842 of 1998 before this Court. All those proceedings were disposed of and he is making a rival claim and he has lost before the judicial forum. The dispute in between the petitioner and one V.Subramanian @ Mani already came to be an end and subsequently, the Land Acquisition Officer had passed an award in Award No.7/88 and a sum of Rs.49,239.50 has been fixed as compensation and the same has been deposited and the communication was sent to the Sub-Court, Cuddalore, the Land Acquisition Court. In view of the pendency of the proceedings and also because of the compensation offered was very low, the petitioner did not receive the amount. Accordingly, the petitioner is entitled for enhancement of compensation, but the matter was not referred to the competent court for higher compensation under Sec.18(1) of the Land Acquisition Act. Hence, the petitioner has filed the present Writ Petition seeking a direction to direct the respondents to refer the proceedings in Award No.7/88, dated 03.08.1988 to the Sub-Court, Cuddalore to fix the compensation to the petitioner as per law in respect of T.S.No.2332/2 measuring 6435 sq.ft.

3. Mr.R.Gururaj, learned counsel appearing for the petitioner has reported no instructions. However, Mr.M.Elumalai, learned Government Pleader has filed a counter affidavit and particularly referred the paragraph 8, which reads as follows :-

"8. Regarding para Nos.7 and 8, it is submitted that the Land Acquisition Officer has stated in the Award No.7/88 that the land bearing Town Survey No.2332/2 stands jointly registered in the name of Thiru Vasudevan and Sivagami in holding No.93, Thiru Vasudevan has stated that he has no right over the land. Thiru Ponnaiyan, Muthaiyan, Kasirajan and Manickam, sons of Thiru Ethiraj have claimed right over the property. There are no documentary evidences. Thiru Muthaiyan has also not turned up for enquiry. In the statement, they have refused to receive the compensation. Hence, the compensation is ordered to be deposited in Civil Court, Cuddalore under Sec. 31(2) of the Land Acquisition Act and a reference made to Sub-Judge, Cuddalore taking as there is a dispute in the land. Hence, Thiru Sathish Kumar is not entitled to claim right over the property."

4. On perusal of the above paragraph, it is clear that the above Survey No.2332/2 stands jointly registered in the name of Thiru Vasudevan and Sivagami in holding No.93. Accordingly, the matter was referred under Sec.31(2) of Land Acquisition Act on the file of Sub-Judge, Cuddalore for determination of title. If any decision is taken, the prayer sought by the petitioner in this Writ Petition cannot be maintained. Hence, this Writ Petition is dismissed. However, after deciding the title, the liberty is granted to the petitioner to pursue his remedy before the competent Civil Court.

5. In the result, the present Writ Petition stands dismissed. No costs.

-s/d-

Assistant Registrar (CS-IX)

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Sub-Assistant Registrar

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To

1. The District Collector,
Cuddalore District,
Cuddalore.

2. The Revenue Divisional Officer,
Land Acquisition,
Cuddalore.

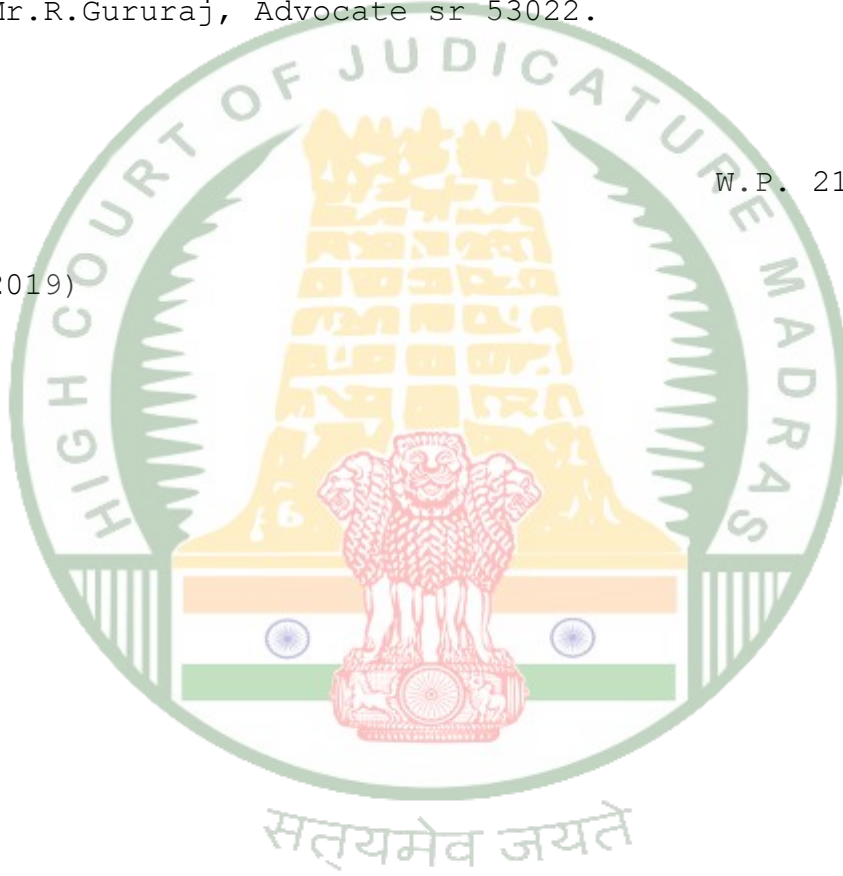
3. The Executive Engineer,
Villupuram Housing Unit,
98, Mahatma Gandhi Road,
Villupuram.

+1 CC to Mr.S.Vanchinathan, Advocate sr 52748.

+1 CC to Mr.R.Gururaj, Advocate sr 53022.

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VGII (CO)
SP (23/07/2019)



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