

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2019

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.8040 of 2019
&
W.M.P.No.8647 of 2019

M.Saraswathi

... Petitioner

vs.

- 1.The District Collector,
Collectorate, Chennai District,
Chennai.
- 2.The Special Deputy Collector (Land Acquisition),
Tamil Nadu Urban Development Scheme - III,
Poonamallee, Chennai.
- 3.The Chief Engineer,
State Highways Department,
HRS Campus, No.76, Sardar Patel Road,
Little Mount, Guindy, Chennai - 600 025.
- 4.The Divisional Engineer,
Highways Department,
C.M.D.Plan, Division-I,
No.78, Anna Salai,
Guindy, Chennai - 600 032.
- 5.The Assistant Engineer,
Highways Department,
Tambaram Division,
Chennai - 600 042.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus forbearing the respondents from evicting the petitioner from the property at Grama Natham New Survey No.164/13 and Old Survey No.77/1B, in Palavakkam Village, Tambaram Taluk, Kancheepuram District and now falls under the Sholingnallur Taluk, Chennai District to an extent of 0.0019 sq. meter, with the building thereon and further direct the respondents to pay compensation prior to acquiring the land of the petitioner within the stipulated period.

For Petitioner : Mr.S.Chol Arasan

For Respondents : Mr. M.Elumalai,
Government Advocate

O R D E R

According to the petitioner, the respondents shall not evict the petitioner, without paying compensation, prior to, acquiring of land from the petitioner.

2. Learned Government Advocate appearing for the respondents has placed a letter No.W.P.No.8018/2019/JDO dated 22.03.2019 of the Assistant Divisional Engineer (H), Highways Department before this Court, wherein it is stated that the order of this Court dated 19.02.2019 made in W.P.No.706, 974 & 1674 of 2019 were decided on the very same issue on hand. The relevant portion of the said order is extracted hereunder:

"2. The learned Additional Govt. Pleader appearing for the respondents would submit that the Assistant Divisional Engineer has given a letter, dated 31.1.2019, wherein it is stated that the said notice was not communicated to the petitioners and it is only a general notice. It is also specifically mentioned in the letter that no properties have been touched and removed till date. Possession of lands will be taken only after following the due procedure contemplated under the Act. Further, the learned Additional Government Pleader would submit that the department has initiated proposal for expansion of four-lane to six-lane road in E.C.R. Therefore, the present writ petitions are at premature stage and the same are liable to be rejected.

3. The learned counsel appearing for the petitioners would submit that the writ petitions may be disposed of by recording the submission made by the Additional government pleader.

4. Recording the statement of the Assistant Divisional Engineer (H), C & M, Tambaram Sub Division, Chennai - 42 in the letter dated 31.01.2019 and the submissions of the learned Additional Government Pleader appearing for the respondents, all the writ petitions are disposed of. No costs. Connected miscellaneous petitions are closed."

3. The learned Government Advocate also prays this Court to pass the order on the very same issue as this writ petition is

also covered under the earlier order of this Court dated 19.02.2019 made in W.P.No.706, 974 & 1674 of 2019.

4. In view of the above, the writ petition is disposed of. It is made clear that possession of lands will be taken only after following the due process as contemplated under the Act. The letter No.W.P.No.8018/2019/JDO dated 22.03.2019 of the Highways Department shall form part of this Order. Consequently, connected miscellaneous petition is closed.

Encl: Herewith enclosed letter No.W.P.No.8018 of 2019/JDO dated 22.03.2019 for reference vide order dated 22.03.2019 by DKKJ as Para No.4

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

- 1.The District Collector,
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- 5.The Assistant Engineer,
Highways Department, Tambaram Division, Chennai - 600 042.

+1 cc to Mr.S.Chol Arasan, Advocate, Sr.No. 28204
+1 cc to The Government Pleader, Sr.No. 28005

W.P.No.8040 of 2019

JP(CO)
CSL/03.05.2019