

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P(PD).No.1143 of 2019
&
C.M.P.No.7392 of 2019

The Chennai Metro Rail Limited

...Petitioner

Vs

1.K.Poonammal

2.V.Rajeswari

3.P.Vasantha

4.Kumar K.Viswanathan

5.K.Sivasubramaniam

6.M.Jayashree

7.Dr.Ravi K.Viwsanathan

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decretal order dated 04.03.2019 made in I.A.No.23 of 2019 in L.A.O.P.No.49 of 2015 on the file of the Subordinate Judge, Poonamallee.

For Petitioner : Mr.Jayesh B Dolia

For Respondents : Mr.R.Thiagarajan

ORDER

The above Civil Revision Petition is filed challenging the order passed in I.A.Nos.21, 22 and 23 of 2019 in L.A.O.P.Nos.49 to 57 of 2015. This Court is not elaborating on the facts which preceed the filing of the above impugned petitions. The reference is only to the facts surrounding the filing of the impugned petitions that are challenged in the revision which have been filed by the revision petitioner/Chennai Metro Rail Limited for receiving these documents as additional documents to reopen the case and to recall the witness of the 2nd respondent.

i)I.A.No.21 of 2019:

Petition is filed under Section 18 Rule 7 of Code of Civil Procedure to reopen the 2nd Respondent's evidence.

ii)I.A.No.22 of 2019:

Petition is filed under Section 17 read with 151 Code of Civil Procedure prays to recall the witness of the 2nd respondent.

iii)I.A.No.23.2019:

Petition is filed under Order VIII Rule 1(3) of Code of Civil

Procedure prays to permit the petitioner/2nd respondent to file the above said documents as petitioner/2nd respondent documents.

2.The affidavit which is filed in support of the said petition would simply state that the documents namely revenue plan of Nerkundram Village, two government orders under which the lands were handed over to them for providing access to the Poonamallee high road and a sale deed 20.09.2010 were required to be produced. However, no reasons for filing this application and this belated stage is mentioned and it is also to be noted that prior to the filing of these three applications an earlier application was filed for marking documents on 30.11.2018 and the same was also allowed in January 2019 itself. Thereafter, the present application has been filed without adducing any reasons whatsoever for the delay as well as the necessity for filing the above documents.

3.The learned Subordinate Judge, Poonamallee after hearing the parties has permitted the revision petitioner to mark document Nos.2 and 6 alone which are the sale deed dated 20.09.2010 and 18.02.2010. With reference to the marking of the 1st document namely the village map of Nerkundrum, the learned Judge has observed that already a consolidated map of Nerkundrum, Koyambedu

and Maduravoyal has been filed by the respondent/claimant. As regards award No.1/98, the said documents has been rejected on the ground that it does not relate to the lands in question and therefore were unnecessary and a similar finding was given with reference to the other two documents namely the Government orders.

4.The learned Judge has observed that no reasons whatsoever was adduced for receiving the said documents and with these observations the learned Judge has partly allowed the said application. Challenging the same, the revision petitioner/Chennai Metro Rail Limited is before this Court.

5.Heard, Mr.Jayesh B Dolia, for the revision petitioner and Mr.R.Thiagarajan, learned Counsel for the respondent. Mr.Jayesh B Dolia, learned counsel would argue that the 1st document map is very essential for showing that there is no direct access to Poonamallee High Road and the other two government orders were necessary to once again show that these are the lands for providing access to the acquired lands.

6.Mr.R.Thigarajan, learned Counsel appearing for the respondent would contend that the map is already before the Court and the access or the lack of it can be deduced from this document itself. The award

does not relate to this property and is therefore not necessary to be received in evidence. The plaintiff/revision petitioner does not given any reasons whatsoever for receiving the documents which have been described as document Nos.3 and 4 and therefore he would argue that the order of the learned Subordinate Judge, Poonamallee should be sustained.

7. Heard the petitioner and perused the papers with reference to the village map that is now sought to be filed, the same has already been marked on the side of the claimant who has filed a consolidated map prepared by the revision petitioner themselves. This map clearly shows, the lie of land, the distance from the data land, proximity/access to the Highway etc., described.

8. As regards two Government Orders, as rightly pointed out by the respondent there is no reason that has been given in the affidavit filed in support of the petition as to why the document has to be marked and what is sought to be achieved by marking the said documents. Though during arguments the learned counsel for the revision petitioner had submitted that the said document is sought to be marked to show the access to the lands of the claimant which has been acquired, a mere perusal of the map would suffice to prove there

is no necessity to mark these two documents. As regards the award No.1/98 the learned Subordinate Judge has observed that it does not relate to the property in question and is therefore not required to be marked. I do not find any infirmity in the order passed by the learned Subordinate Judge, Poonamallee.

The Civil Revision Petition stands dismissed. There shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is also closed.

26.03.2019

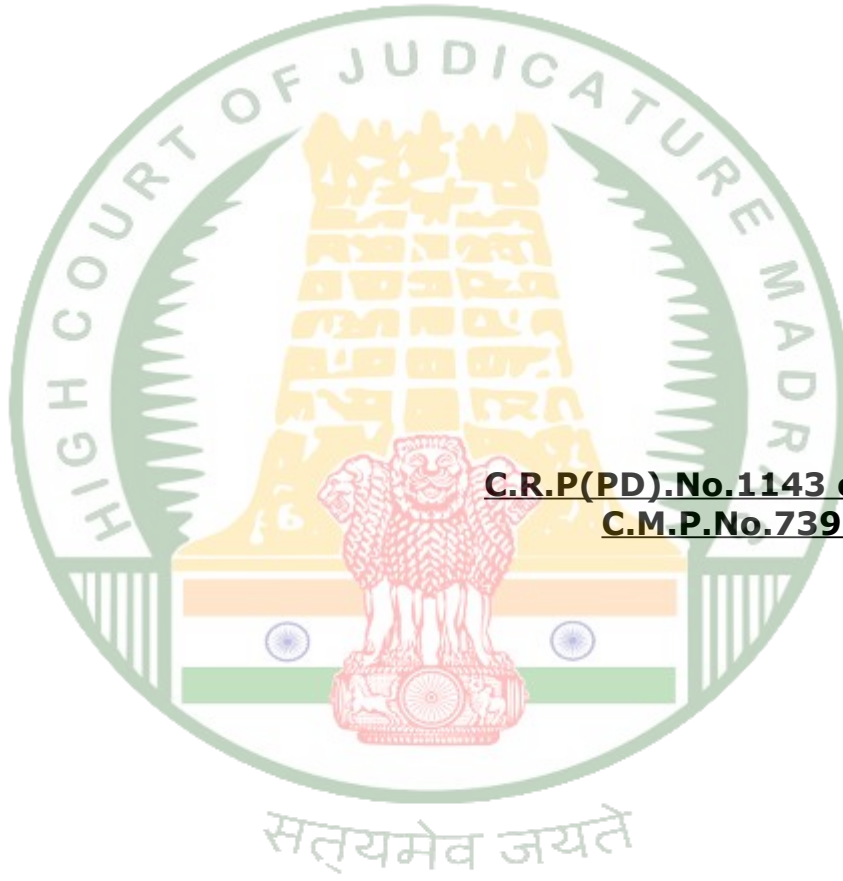
kan
Index : Yes/No
Speaking order/non-speaking order

To,
1.The Subordinate Judge,
Poonamallee.

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P.T.ASHA, J.,

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