IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.09.2019

PRONOUNCED ON : 27.09.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.19511 of 2019 and
W.M.P.Nos.18990 & 27247 of 2019

Sri Karivaradharaja Perumal Temple,
Represented by Hereditary Trustee,
Managing Trustee Mr.K.K.Jaganathan,
No.22, Perumal Koil Street,
Ganapathy,
Coimbatore – 641 006.
... Petitioner

Vs

1.The Govt., of Tamil Nadu,
Rep. By the Secretary,
Highways Department,
Fort Sait George,
Madras – 600 009.

2.The District Collector,
Collectors Office,
Coimbatore – 641 018.

3.The Land Acquisition Office (Cum),
The District Revenue Officer,
Collectors Office,
Coimbatore – 641 018.

4.The Divisional Engineer,
Highways (Nabard_ - Trichy Road,
Coimbatore – 641 018. ... Respondents

Prayer :- This Writ Petition is filed under Article 226 of the Constitution of India for a writ of Certiorari call for the records of the third respondent relating to his order dated 17.05.2019 passed in Na.Ka.No.7004/2010/MU6 and quash the same.

For Petitioner :Mr.M.Kalyanasundaram, Senior Counsel for Mr.V.Srinivasan

For Respondents :Mr.D.Raja, Additional Government Pleader

ORDER

The case of the petitioner is that, Sri Karivaradharaja Perumal Temple at Coimbatore is a 19th century temple constructed by Krishnaraya Udayar, king of Mysure. In the year 2014, the Highways Department of Tamil Nadu Government proposed to construct a fly over with service road near the railway gate on Papanayakanpalayam road, Ganapathy. 8 cents of petitioner land was sought to be acquired for the said purpose and therefore, notification under Section 15(2) of Tamil Nadu Highways Act, 2001 (hereinafter referred to as "the Act") was issued.

2.Alleging that without issuing any notice whatsoever, the respondents are taking steps to acquire the land, situated in an extent of 12 cents and patta is granted in favour of the petitioner temple.

3.Earlier, a writ petition seeking to quash the notification issued under Section 15(2) of the Act, was filed by the petitioner herein in W.P.No.27306 of 2018. The State contested the writ petition stating that, the land sought to be acquired does not belong to the petitioner; no patta issued to the petitioner in respect of the land and the said land sought to be acquired is classified as 'government poromboke'.

4.On hearing the rival contentions, this Court, vide order dated 19.11.2016 in W.P.No.27306 of 2018, has passed by the following order:-

> "5. In the said circumstances, if at all, the petitioner has any valid material to establish their title, it is always open to them to approach the acquisition officer viz., District Revenue Officer (Land Acquisition), Coimbatore, and file all those documents to establish their title, and file their objections. On filing such objections, the Land Acquisition Officer is directed to conduct the enquiry, and submit the report before the Government for passing suitable

orders under Sec.15(3) of the Act."

5.The District Revenue Officer (Land Acquisition), Coimbatore conducted enquiry as directed by the High Court. The petitioner participated in the enquiry and submitted all the relevant documents to prove title. Without taking note of those documents, the third respondent has passed the impugned order on 17.05.2019 holding that the property sought to be acquired not the land of the petitioner Temple but belongs to the Government. Hence the writ petition.

6.The learned Senior Counsel appearing for the petitioner would contend that this Court while disposing W.P.No.27306 of 2018 has specifically directed the District Revenue Officer to enquire about the objection of the petitioner and submit the report to the Government for passing suitable order under Section 15(3) of the Act. Whereas, the District Revenue Officer (Land Acquisition), Coimbatore under the impugned order has not submitted the report to the Government for passing order under Section 15(3) of the Act. Further, the learned Senior Counsel appearing for the petitioner contended that the land in question is in possession of the petitioner Temple for more than 100 years. By adverse possession, the petitioner temple has perfected the title and therefore, without proper notice for acquisition, the proceedings initiated by the respondents and the order passed by the Revenue Divisional Officer dated 17.05.2019 are liable to be quashed.

7.Per contra, the learned Additional Government Pleader appearing for the third respondent would submit that the petitioner has made false representation before this Court in W.P.No.27306 of 2018, claiming as if the petitioner temple owned 12 cents of land with patta in its favour. The enquiry conducted by the Revenue Divisional Officer and the order passed by him in respect of the petitioner land would clearly show that the petitioner temple own only 35 sq.meter of land in T.S.No.167/1A, New T.S.No.3 and that 35 sq.meter of land is not the subject matter of acquisition. The land subjected to acquisition is in S.No.170/1 part (New T.S.No.1) and an extent of 3983 sq.meter of land has been acquired for constructing over bridge. The said land belongs to Government. In such circumstances, when no land of the petitioner is subjected to acquisition, the reference to the Government under Section 15(3) of the Act, does not arise.

8.In the counter filed by the third respondent, the above submission is reiterated as follows:-

> “7.It is humbly submitted that the third respondent being the land acquisition officer cannot have any authority to decide the title of the subject land, whereas in the revenue records it is mentioned as Government poromboke land. Moreover, the subject land is not at all coming within the purview of the acquisition as alleged by the petitioner in the earlier writ petition. As there was a direction by this Hon'ble Court on 14.11.2018 to conduct the enquiry and submit the report before the Government for passing suitable orders u/s.15(3) of the Act, the impugned order dated 17.05.2019 came to be passed by this respondent in and by which the request of the petitioner was rejected.
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> 8.It is humbly submitted that since the subject land is not at all notified under the Tamil Nadu Highways Act, the land acquisition officer cannot send the proposals after conducting enquiry under Section 15 (2) of the Act to the Government fo rpassing orders under Section 15(3) of the Act. As such this respondent has rejected the request of the petitioner herein. It is further submitted that unless and until the petitioner has established the title over the subject land by way of institution of civil suit or by taking necessary steps to cancel the entries made in the revenue records, the petitioner cannot have any grievance and maintain the above writ petition.”

9.Thus, in the impugned order as well as in the counter, it is explicitly stated why the petitioner request does not attract the provisions of Section 15 of the Act and reason for not referring it further to the Government under Section 15(3) of the Act. It is also brought to the notice of this Court in the counter that the petitioner also filed another writ petition in W.P.No.15015 of 2019 wherein, this Court taking note of the Revenue Divisional Officer proceeding dated 17.05.2019 which is impugned in this writ petition, dismissed the writ petition. Hence, the present writ petition is also to be dismissed.

10.From the counter and the impugned order, this Court finds that the contention raised by the petitioner that the temple owned 12 cents of land itself is factually incorrect. The temple owned only 3559 sq. meter of land. There is no acquisition of land owned by the temple. While so, the petitioner has no right to protest the construction of over bridge or seek for any monetary compensation. Besides, the Trust who represents the petitioner temple has come into existence only on 21.01.2017 and no revenue document produced by the petitioner herein before the District Revenue Officer, to substantiate their claim seeking title continuous or long possession over the property in which the Highway Department proposed to construct over bridge.

11.For the above said reasons, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Secretary,
Government of Tamil Nadu,
Highways Department,
Fort Sait George,
Madras - 600 009.

2.The District Collector,
Collectors Office,
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3.The Land Acquisition Office (Cum),
The District Revenue Officer,
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Coimbatore - 641 018.

4.The Divisional Engineer,
Highways (Nabard_ - Trichy Road,
Coimbatore - 641 018.

+1cc to Government Pleader SR.NO. 83997
+1cc to Mr.V.Srinivasan, Advocate sr.83899

W.P.No.19511 of 2019

pvs(co)
nr 12/11/2019