

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:05.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.22950 of 2019

V.Vanitha

...Petitioner

Vs.

1. The District Collector,
Greater Chennai,
Singaravelar Maligai
Rajaji Salai,
Chennai-600 001.
2. The Additional Director General
of Police - CBCID,
Dr.Rahdakrishnan Salai,
Mylapore,
Chennai-600 004.
3. The Superintendent of Police-CBCID
Pantheon Road,
Egmore,
Chennai-600 008.
4. The Special Deputy Collector
Land Acquisition, TNUDP III,
Office of the Chief Engineer(Highways)
Tamil Nadu Urban Development
Project-III, New Street, Alandur
Chennai-600 016.
5. The Village Administrative Officer-
Karambakkam, Mullai Street,
Ponni Nagar, Porur,
Chennai-600 116.
6. The Thasildar-Maduravoyal
Gangai Amman Koil Street,
Alapakkam, Chennai-600 116.
7. Mrs.Rajamani Ammal
8. Sridevi
9. Shenbagaraman

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 1st respondent to complete the enquiry as directed by this Court in W.P No.2079 of 2018 by its order dated 21.12.2018 within a period of four weeks and if cognizable offence is made out against the public servants and others as mentioned in the above writ petition order the 1st respondent shall file complaint before the 2nd respondent and the 2nd respondent shall depute an officer not below the rank of the 3rd respondent to investigate the same under the supervision of the 2nd respondent and file the final report within a time frame fixed by this Court.

For Petitioners : Mr. Abudukumar Rajarathinam
For Mr.V.Ramesh

For Respondents : Mr.M.Mohamed Riyaz
Addl. Public Prosecutor
for R2 and R3

For Respondents : Mr.D.Raja
Additional Government Pleader
For R1, R4, R5 & R6.

ORDER

The learned Additional Government Pleader takes notice for R1, R4, R5, R6 and the learned Additional Public Prosecutor takes notice for R2 and R3.

2. By consent, the writ petition is taken up for final hearing.

3. This writ petition has been filed for a direction to the respondent police to complete the enquiry and to proceed further and to take action in accordance with law, pursuant to the orders passed by this Court in W.P No.2079 of 2018. It will be relevant to extract the portions of the earlier order passed by this Court in W.P No.2079 of 2018.

14. It is an admitted fact that notices in respect of land acquisition were issued only to the 1st petitioner and after the award, the Acquisition Officer after considering the fact that there was a title dispute between the 1st petitioner and the respondents 2 & 3 and a suit in O.S.No.641 of 2004 was also pending before the learned District Munsif, Poonamallee, by order dated 15.02.2011, had directed the compensation amount to be deposited into the civil court having jurisdiction. While so, nearly

after six years of such order, based on a sale deed submitted by the 4th respondent, the 1st respondent had reopened and reviewed his own order, without issuing any notice to the petitioners and held that the 4th respondent had established his title to the land in question and has paid the entire compensation amount to 4th respondent.

15. It is the settled law that once the Award was passed, the Land Acquisition Officer has become functus officio. If at all any dispute arises as to the title or apportionment of the compensation, the Acquisition Officer concerned shall refer the dispute to the civil court having jurisdiction under Section 22 of the Act and shall deposit the award amount into the civil court. In the instant case, after considering the fact that there was a title dispute between the 1st petitioner and respondents 2 & 3, the Acquisition Officer had rightly passed an order for the deposit of the compensation amount before the civil court having jurisdiction and it is for the civil court to decide the dispute as to the title and pay the compensation to the person who establishes the title over the land in question. In the considered opinion of this court, after having passed the order for deposit of compensation amount into the civil court, the 1st respondent, cannot review his own order and direct the compensation amount to be paid to the 4th respondent. Hence, the order of passed by the 1st respondent is ex facie illegal and without jurisdiction as he had no such power to review his own order.

16. Even though the respondents 2 and 2 had claimed ownership over the land comprised in S.No.188/25, they had shown the new survey number of their property as S.No.188/1A and sold the land in question to the 4th respondent through their power agent. Be that as it may, as the suits are pending before the civil courts, it is for the civil court to decide the title over the property in question and this court need not venture into the title dispute at this stage in a writ proceedings.

17. Apart from that, subsequent to the award, even though there was an order directing the compensation amount to be deposited into the civil court having jurisdiction as there was a dispute regarding title over the property, the same was not deposited till 2017. While so, all of a sudden, in the year 2017, the award amount was paid to the 4th respondent based on the discreet enquiry stated to have been conducted by the Tahsildar on the orders of the 1st respondent and also based on the interim order of the civil court in the suit, which, as a matter of fact, did not at all declare title in favour of the respondents 2 and 3. This creates a suspicion over the conduct of the Land Acquisition Officer concerned.

18. In the above circumstances, the District Collector, Greater Chennai, is directed to conduct a detailed enquiry in respect of disbursement of compensation amount to the 4th respondent and in the enquiry, if the District Collector finds that the concerned land Acquisition Officer acted in collusion with the 4th respondent, he shall take suitable action including filing of criminal complaint against the erring officer/officers concerned and any other person involved in it.

19. Insofar as payment of compensation is concerned, admittedly, there is a dispute between the petitioners and the respondents 2 to 4 regarding title over the land in question and the civil suits are pending and hence, the award amount has to be necessarily deposited into the civil court under Section 22(3) of the Act. As such, the 1st respondent is directed to deposit the entire award amount relating to the land in question before the civil court having jurisdiction within a period of six weeks from the date of receipt of a copy of this order and the parties are directed to work out their remedies before the reference court. Since the award amount had already been paid to the 4th respondent illegally, the District Collector concerned is directed to take appropriate action to recover the amount from the 4th respondent forthwith, if necessary, by invoking the provisions of the Revenue Recovery Act. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

4. Heard the learned counsel for the petitioner, learned Additional Government Pleader and the learned Additional Public Prosecutor appearing for the respective parties.

5. It is clear from the records that this Court has given a very clear finding that the award has already been paid illegally to the counter-party and therefore, a direction was given to the 1st respondent to initiate appropriate action to recover the amount forthwith. This Court also fixed a time limit of eight weeks to complete the said task.

6. This Court, in the above order, had also directed the 1st respondent to conduct an enquiry and take criminal action insofar as the forged documents are concerned.

7. The grievance of the petitioner is that inspite of the above directions given by this Court, till date, no action has been taken by the 1st respondent and therefore, the petitioner left with no other option has approached this Court.

8. This writ petition is more in the nature of an execution petition. Inspite of the specific directions given by this Court, the 1st respondent has not acted upon the same and till date, neither the criminal action nor the proceedings to recover the amount from the counter party, has been initiated.

9. In view of the above, this writ petition is disposed of with a direction to the 1st respondent to immediately act upon the directions given by this Court in W.P No.2079 of 2018 and take action for the recovery of money from the counter party and also initiate criminal proceedings, within a period of six weeks from the date of receipt of copy of this order. It is also made clear that if the 1st respondent requires particulars or documents from the petitioner, the petitioner shall be permitted to submit the same before the 1st respondent. It is made clear that the 1st respondent shall strictly comply with the directions given by this Court in this writ petition. No cost.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,
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Rajaji Salai,
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of Police - CBCID,
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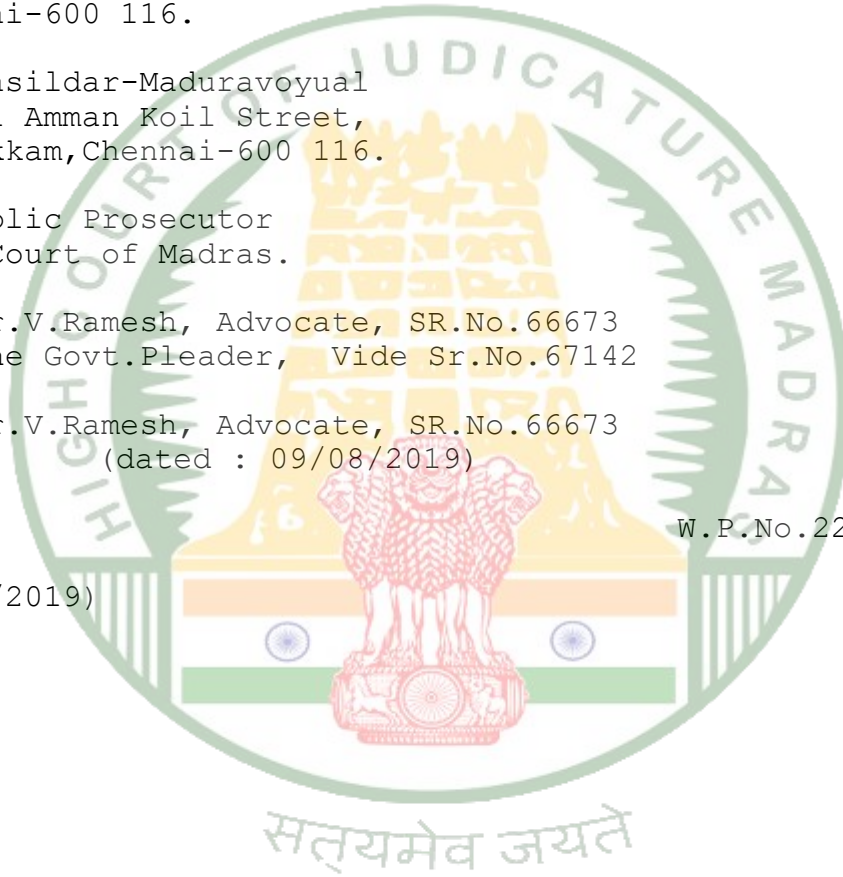
7. The Public Prosecutor
High Court of Madras.

+1cc to Mr.V.Ramesh, Advocate, SR.No.66673
+1cc to the Govt.Pleader, Vide Sr.No.67142

+1cc to Mr.V.Ramesh, Advocate, SR.No.66673
(dated : 09/08/2019)

W.P.No.22950 of 2019

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