

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.30910 of 2019

Mrs.Gowri, W/o Kaliaperumal

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Petitioner

-vs-

1. The Chief Secretary (Revenue)  
Secretariat  
Government of Puducherry

2. The District Collector  
Puducherry

3. The Deputy Collector (Revenue North)-cum-  
Land Acquisition Officer  
Puducherry

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Respondents

Petition under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents herein to consider the petitioner's representation dated 31.7.2019 for re-conveying the land situated at Puducherry Municipality, Old village name Pudupalayam and new village name Puducherry Madura Uppalam and Village No.40 to an extent of 1 kani 28 kuzhi and 3 veesams comprised in cadaster No.130 2/3 Pt, 130 3/3 and 132 2/2 Pt, vide Survey No.283/2, in the name of legal heirs of the petitioner's deceased father Krishnasamy Naidu since the land is not still utilized for the acquired purpose.

For Petitioner सत्यमेव जयते :: Mr.B.Ramar

For Respondents :: Mrs.N.Mala  
Additional Government Pleader  
(Puducherry)

ORDER

Mrs.Gowri, W/o Kaliaperumal, claiming to be the daughter of Mr.Krishnasamy Naidu who has purchased the land in question under a sale deed dated 15.7.78 bearing Document No.1408 of 1978

from one Rosa Sampooranam alias Rosi Francis, W/o Samidass Francis, has come to this Court seeking issuance of a writ of mandamus under Article 226 of the Constitution of India to direct the respondents to consider her representation dated 31.7.2019 for re-conveyance of the land in cadaster No.130 2/3 Pt, 130 3/3 and 132 2/2 Pt, vide Survey No.283/2 in the name of legal heirs of the petitioner's deceased father Krishnasamy Naidu, since the land is not still utilized for the acquired purpose.

2. Learned counsel for the petitioner submitted that after the issuance of notification No.16647/73/d dated 27.11.73, the petitioner's father raised his objection and finally, overlooking his objection, an award was also passed in the name of her father Mr.Krishnasamy Naidu vide No.13/79 dated 2.12.79. Aggrieved by the award, the petitioner's father also filed a civil suit in O.S.No.87 of 1980 before the Second Additional Sub Court, Puducherry to declare the award passed by the third respondent as invalid. But the trial Court dismissed the suit on the ground that the land acquisition proceedings made for public purpose cannot be questioned. Aggrieved thereby, he has also filed A.S.No.159 of 1981 before the Second Additional District Court, Puducherry and the lower appellate Court, reversing the trial Court's order, decreed the suit as prayed for. As against the same, the respondents preferred S.A.No.1845 of 1982 before this Court. But during the pendency of the second appeal, the petitioner's father died on 13.2.83 leaving behind the petitioner and her brother and sisters as legal heirs to his estate. Finally this Court, setting aside the judgment and decree of the lower appellate Court, allowed the second appeal by its judgment dated 18.1.96. Thereafter, C.M.P.No.1655 of 1998 in S.A.No.1845 of 1982 was filed to implead one Mr.Premraja, S/o Kothandam as a party to the second appeal citing a reason that his mother allegedly purchased the same subsequently. But the said application was dismissed. In spite of the above proceedings, the petitioner has been in possession and enjoyment of the land in question by running a hotel in the name and style of 'New Choice' and she has been paying water tax, etc. Therefore, she filed W.P.No.22076 of 2019 before this Court to rectify all the errors committed by the respondents. Subsequently, she has also filed a representation to the respondents to re-convey the land in question.

3. But this Court is unable to find any merit in the writ petition for the following two reasons. Firstly, the petitioner has miserably failed in her attempt to challenge the notification, as the judgment and decree came to be passed by this Court in S.A.No.1845 of 1982 on 18.1.96. Secondly, much

prior thereto, an award was passed and the petitioner's father was also paid with the compensation. Hence, the writ petition fails and it is dismissed. No costs.

Sd/-  
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

ss  
To

1. The Chief Secretary (Revenue)  
Secretariat  
Government of Puducherry
  2. The District Collector  
Puducherry
  3. The Deputy Collector (Revenue North)-cum-  
Land Acquisition Officer  
Puducherry
- +1cc to the Public Prosecutor, High Court,  
for Puducherry, in SR.90876.

W.P.No.30910 of 2019

BR(CO)  
CB(18/12/2019)



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