

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED : 05.02.2019

CORAM  
THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.Nos.29078 and 29202 of 2018  
and W.M.P.Nos.34006 and 34125 of 2018

M.Sundarabai .. Petitioner in W.P.No.29078 of 2018  
B.Narmadha .. Petitioner in W.P.No.29202 of 2018

-vs-

1. The Member Secretary,  
Chennai Metropolitan Development Authority,  
No.1, Gandhi Irwin Road,  
Chennai -5.
  2. The Chairman,  
Tamil Nadu Slum Clearance Board,  
Chepuak, Chennai 600 005.
  3. The District Collector,  
Office of the District Collectorate,  
Tiurvallur.
  4. The Tahsildar,  
Ponneri Taluk Office,  
Ponneri 601 204
- ...Respondents in both Writ Petitions.

Prayer in W.P.Nos.29078 and 29202 of 2018 : Writ petitions filed under Article 226 of the Constitution of India praying for a Writ of Mandamus, forbearing the respondents 1 to 4 or any other person or persons claiming through them from making unlawful / unauthorised entry into the petitioners' lands measuring an extent of 1308 sq.ft in Survey No.357/10 and 0.05 1/2 cents in Survey No.318/6 respectively of Idayanchavadi Village, Minjur Panchayat Union, Ponneri Taluk, Tiruvallur District, except under due process of law.

\* \* \*  
For Petitioner in : Mr.S.Kishorekumar  
both W.Ps. for Mr.T.Sai Krishnan.

For Respondent-2 in : Mr.S.Prabhu  
both W.P.s

For Respondents-3 and 4 : Mr.E.Balamurugan  
in both W.Ps Special Government Pleader.

## C O M M O N   O R D E R

These Writ Petitions are filed seeking issuance of Writ of Mandamus forbearing the respondents 1 to 4 from making unlawful/unauthorized entry into the petitioners' lands measuring an extent of 1308 sq.ft in Survey No.357/10 and 0.05 1/2 cents in Survey No.318/6 respectively, situated in Idayanchavadi Village, Minjur Panchayat Union, Ponneri Taluk, Tiruvallur District, except under due process of law.

2. The claim of the petitioners in both Writ Petitions is that they are the owners of the above mentioned properties having purchased the same for lawful consideration from the original owners, viz., S.Manoharan and Samson, by way of Sale Deeds dated 07.12.2009 and 27.12.2010, registered as Document Nos.8309 of 2009 and 8916 of 2010 respectively in the Office of the Sub Registrar, Tiruvottiyur, Chennai and the petitioners have been in possession and enjoyment of the said extent from the date of purchase.

3. While so, on 12.09.2018, certain people entered the petitioners' lands and started some work. When the same was objected to by the petitioners, it was stated that an extent of 23.12 acres of lands including Survey Nos.357/10 and 318/6 respectively were acquired by the first respondent for the purpose of Manali New Town Scheme in the year 1991 and thereafter, the lands were transferred to the first respondent's project. Due to the objections raised by the petitioners, the persons deputed by the respondents left the place.

4. It is the contention of the petitioners that even if the acquisition had happened prior to the commencement of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short, "Land Acquisition Act, 2013") and if the physical possession of the land has not been taken or the compensation has not been paid, the said proceedings shall be deemed to have lapsed. Therefore, even if there were acquisition proceedings, the same stand lapsed in view of the fact that the possession still continue with the petitioners.

5. The second respondent, who is the Slum Clearance Board, has filed counter affidavits resisting the case of the petitioners. It is stated that Survey Nos.318/6B and 357/10 situated in Idayanchavadi Village, Minjur Panchayat Union, Ponneri Taluk, Tiruvallur District along with other survey numbers were acquired, after issuing Notification under Section 4(1) of the Land Acquisition Act, 1894 on 02.03.1991. Thereafter, on 04.03.1994, an award was passed in Award No.1 of 1994. The said vacant lands were acquired by the CMDA/the first

respondent herein for housing colony and handed over to the Slum Clearance Board, vide proceedings No.NTI/2506/2013 dated 10.03.2016 and not acquired now, as stated by the petitioners. The petitioners appear to have purchased the said lands from one S.Manoharan and M.Samson, vide document Nos. 8309 of 2009 and 8916 of 2010 dated 07.12.2009 and 27.12.2010 respectively after the acquisition proceedings by the CMDA and also after the award passed on 04.03.1994, deposits were also made into the Civil Court as ordered in the proceedings dated 30.01.1995 of the Special Deputy Collector, Land Acquisition CMDA. The petitioners are not listed in the interested persons under Section 31(2), as the owners on the date of acquisition were somebody else. Even in the Notification under Section 4(1) and declaration under Section 6 of the Act as well as in the award, one M.Gopalakrishnan, Sivagangairajan, K.Radhamani and S.Manoharan were shown as interested persons. The said land acquisition was done for the purpose of Manali New Town Housing Scheme, which was under challenge and the same was already upheld by this Court in W.P.No.16382 of 1992 on 20.12.1999, W.P.No.18666 of 1993 on 27.12.1999 and W.P.No.8850 of 1992 on 07.02.1999. Since the acquisition proceedings were completed and the lands in question were transferred to the Slum Clearance Board, the lands are in possession of the Board and not in possession of the petitioners as contended. The patta was also transferred in favour of the CMDA and later in favour of the Slum Clearance Board and as such, now the patta is standing in the name of the Slum Clearance Board. The said Survey Nos.318/6B and 357/10 are part of 19.75 acres of land handed over to the Slum Clearance Board, vide proceedings No.NTI/2506/2013 dated 10.03.2016. Hence, the present petitions are filed with malafide intention to stall the Government project being implemented by the Slum Clearance Board. The Slum Clearance board has now formulated Economically Weaker Section (EWS) Housing Scheme and got approval from the Government of India under Pradhan Mantri Awas Yojana (PMAY). It is stated by the respondents that the work had already commenced and completed and in fact the photographs were also produced before this Court in support of the same. As already acquisition proceedings were completed in the year 1994 and patta was transferred in favour of the CMDA, later in favour of the Slum Clearance Board, the contention of the petitioners that the lands are in their possession cannot be believed. Even as per the Award No. 1/1994 dated 04.03.1994 the compensation amount was deposited into the Sub Court as ordered by the Special Deputy Collector under Section 31 of the Land Acquisition Act, 2013. The petitioners, being the subsequent purchasers, cannot seek any relief under Section 24(2) of the Act. It is also stated that the said issue is pending before the Hon'ble Supreme Court of India and until the issue is decided by the Hon'ble Supreme Court, the relief sought for by the petitioners, cannot be granted in the Writ Petitions and the petitioners are not entitled for any relief.

6. Admittedly, the petitioners are the subsequent purchasers. Earlier, the acquisition proceedings referred to by the respondents were challenged by the petitioners' vendors (i.e) the original owners and the same reached finality. Thereafter, an award was passed and the compensation amount was also deposited before the Civil Court. As stated earlier, the respondents have taken possession of the properties and the second respondent had already commenced the construction activities. As there is no material available on record to show that the petitioners are in possession of the properties, this Court does not find any prima-facie case in favour of the petitioners. Hence, this Court is not inclined to entertain the relief sought for by the petitioners.

7. Accordingly, the Writ Petitions are dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Member Secretary,  
Chennai Metropolitan Development Authority,  
No.1, Gandhi Irwin Road, Chennai -5.
2. The Chairman,  
Tamil Nadu Slum Clearance Board,  
Chepuak, Chennai 600 005.
3. The District Collector,  
Office of the District Collectorate,  
Tiurvallur.
4. The Tahsildar,  
Ponneri Taluk Office,  
Ponneri 601 204.

+1cc to Mr.S.Prabhu, Advocate, S.R.No.9673  
+2ccs to Mr.R.Saikrishnan, Advocate, S.R.No.9838  
+1cc to the Government Pleader, S.R.No.10248.

W.P.Nos.29078 and 29202 of 2018  
and W.M.P.Nos.34006 and 34125 of 2018

BR(CO)  
rrs 20/03/2019