

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.03.2019
Coram

The Hon'ble Mr. Justice D. KRISHNAKUMAR

Writ Petition No.33876 of 2018
&
WMP No.7964 of 2019

A.R.Minhas Ahmed

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Department of Highways (HW2)
Secretariat, Fort St. George,
Chennai - 600 009.

2.The Divisional Engineer, (Highways)
Project Division - I,
Alandur, Chennai - 600 016.

3.The Special Deputy Collector CMDA/
The Special Tahsildar,
Land Acquisition,
Madras Metropolitan Road,
Development Scheme,
Saidapet, Chennai - 600 015

.... Respondents

PRAYER Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus to direct the respondents herein to pay fair, reasonable and equitable compensation under Tamil Nadu Highways Act on par with the modalities under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for the entire land acquired to an extent of 1320 sq.ft in old survey No.56/2C and new survey No.56/4 of No.119, Pallikaranai Village, now Sholinganallur Taluk, Kancheepuram District to the petitioner herein for the up-gradation and widening of Velacherry - Tambaram Main Road in the State of Tamil Nadu.

For Petitioner : Mr.G.Purushothaman

For Respondents : Mr.D.Raja
Additional Government Pleader

ORDER

This writ petition has been filed by the petitioner seeking a direction to the respondents herein to pay fair, reasonable and equitable compensation under Tamil Nadu Highways Act on par with the modalities under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for the entire land acquired to an extent of 1320 sq.ft in old survey No.56/2C and new survey No.56/4 of No.119, Pallikaranai Village, now Sholinganallur Taluk, Kancheepuram District to the petitioner herein for the up-gradation and widening of Velacherry - Tambaram Main Road in the state of Tamil Nadu.

2. Heard the rival submissions of both the parties and perused the materials available on record.

3. According to the petitioner, the respondent has acquired the land in old survey No.56/2C and new survey No.56/4 to an extent of 1320 sq. ft. situated at No.119, Pallikaranai Village, Sholinganallur Taluk, Kancheepuram District. It is the case of the petitioner that, he had been in peaceful possession and enjoyment of the subject land right from the date of its purchase. Out of the total extent of 5280 sq.ft. of vacant land, he sold 3960 sq.ft. of land to one K.Ramamurthy, for a sale consideration of Rs.1,65,000/- by way of sale document No.3998/1996 dated 26.08.1996, registered before the District Registrar, South, Chennai. The petitioner has retained the remaining portion of the land measuring to an extent of 1320 sq.ft. and he was in continuous peaceful possession and enjoyment of the said property. The said Survey No.56/2C was later renumbered as Survey No.56/3 and further sub-divided as 56/3A and 56/3B and newly assigned survey number is S.No.56/4 and even the Revenue Authorities have issued patta No.4616 dated 08.06.2005 in favour of the petitioner.

4. In the year 2005, the petitioner has noticed that, road up-gradation/developmental activities were carried out in and around his property. When the petitioner enquired the authorities, they informed that the entire total extent was acquired for project. Thereafter, in the year 2006, the petitioner visited the property and he found that construction materials were placed in the petitioner's land and later removed. After sometime, the petitioner's brother informed the petitioner that, road has been laid on petitioner's property. Hence, the petitioner's brother on behalf of petitioner filed a petition under Right to Information Act before the concerned authorities, seeking as to whether the land was acquired by the Highways Department and from whom, the land was acquired by the

Highways Department. A reply had been received on 27.02.2007 stating that, survey No.56/3 was sub divided in the name of two persons. As per the same, an extent of 0.10.5 ares in S.No.56/3A was acquired from one Thirupurasundari under Patta No.8936 and an extent of 0.12.0 ares in S.No.56/3B was acquired from one Annarathinammal and both of them, sold the said lands to Cee Dee Yes Infrastructure Development (P) Ltd, under patta No.8935 and the same has been transferred in the name of aforesaid company.

5. It is further stated that, survey No.56/3 was not acquired for Tambaram - Velacherry Road and that, 56/2C was acquired for Pallavaram - Thuraipakkam Radial Road. According to the petitioner, Highways Department, by its letter No.4512/HW2/2007-4, dated 02.04.2007 stated that, survey No.56/4 under patta No.4616, to an extent of 0.05.0 which stands in the name of petitioner was not acquired either for Tambaram - Velacherry Road or for Pallavaram-Thuraipakkam Road. Head Quarters Deputy Tahsildar, Sholinganallur by his proceedings in Na.Ka.No.9218/2009/M1, dated 17.03.2010, has stated that, survey No.56/4 (Old No.56/2C), for which patta No.4616 was issued in the name of petitioner and that, Tambaram - Velacherry road is laid on survey No.56/4, which is the subject matter of issue. The Divisional Engineer (Highways), Chennai Metropolitan Highways Division by letter No.2727/2007/B3, dated 22.06.2010 had stated that, the second respondent is the appropriate authority to obtain more details regarding the subject matter.

6. However, the second respondent by his letter Na.Ka.No.2410/27/t/m, dated 19.07.2010 accepted that the survey No.56/4 in Pallikaranai Village was acquired for Velacherry-Tambaram Main Road by the Highways Department. The District Survey Officer, Kancheepuram, by his letter dated 25.06.2010 had stated that, Survey No.56/2C was sub divided into S.No.56/4, on one time and S.Nos.56/2C1A, 56/2C1B, 56/2C-1D, 56/2C - 1E, 56/2C - 1F and 56/2C - 1G on another time, as per the register maintained in Sholinganallur Taluk Office and that, it was not recorded in the village records that Survey No.56/4 was acquired by Madras Metropolitan Road Development Project. He also stated that, survey No.56/4 was surveyed and the same is a Tar Road (Tambaram - Velacherry Main Road) as per the report of the Tahsildar, Sholinganallur.

7. Therefore, it is clear case that the petitioner's land in S.No.56/4 was utilised for the widening of Velacherry - Tambaram Main Road, but the petitioner's land was taken away without following due process of law. It is pertinent to submit here that, no notice whatsoever was issued to the petitioner or to the petitioner's predecessor in title pertaining to the S.No.56/4 (Old S.No.56/2C) to an extent of 1320 sq. ft. which is

the subject matter in this writ petition.

8. A counter affidavit has been filed by the third respondent stating that the petitioner has claimed his right by purchasing the land from one Parthasarathy in the year 1993. Further, the Kancheepuram District Survey Department had sent a communication dated 25.06.2010 to the petitioner stating that S.No.56/2C was sub divided twice. At first, it was subdivided as S.No.56/4 and again it was sub divided as S.Nos.56/2C1A, 56/2C1B, 56/2C-1D, 56/2C - 1E, 56/2C - 1F and 56/2C - 1G. From the said communication, it is clear that S.No.56/2C and S.No.56/4 are not one and the same. In the counter affidavit, it is stated that the contention of the petitioner that the land in S.No.56/2C was renumbered as S.No.56/4 is totally incorrect. Further, according to the learned Government Pleader one S.Natarajan, S.Rajan, Lingaammal and N.Gayathri had purchased the said property on 05.04.1994 & 24.04.1995 from the registered land owner Parthasarathy and the land was under their enjoyment. On 04.12.2001, the above said four persons appeared before the land acquisition officer and gave a statement for the purpose of acquiring the land through private negotiation. Accordingly, award No.9 of 2001 was passed on 12.12.2001 and the compensation has also been paid to the said S.Natarajan and two others, after verifying the sale deeds produced by them.

9. On a perusal of the materials placed before this court, it is seen that the petitioner came to know about the acquisition proceedings in the year 2010, however, he has approached this Court only in the year 2018. All these factual disputes have to be disputed only before the civil court.

10. Accordingly, the writ petition is dismissed. It is open for the petitioner to approach the concerned Civil Court, to work out his remedy, subject to limitation. No costs. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

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To

1.The Secretary,
Department of Highways (HW2)
Secretariat, Fort St. George,
Chennai - 600 009.

2.The Divisional Engineer, (Highways)
Project Division - I,
Alandur, Chennai - 600 016.

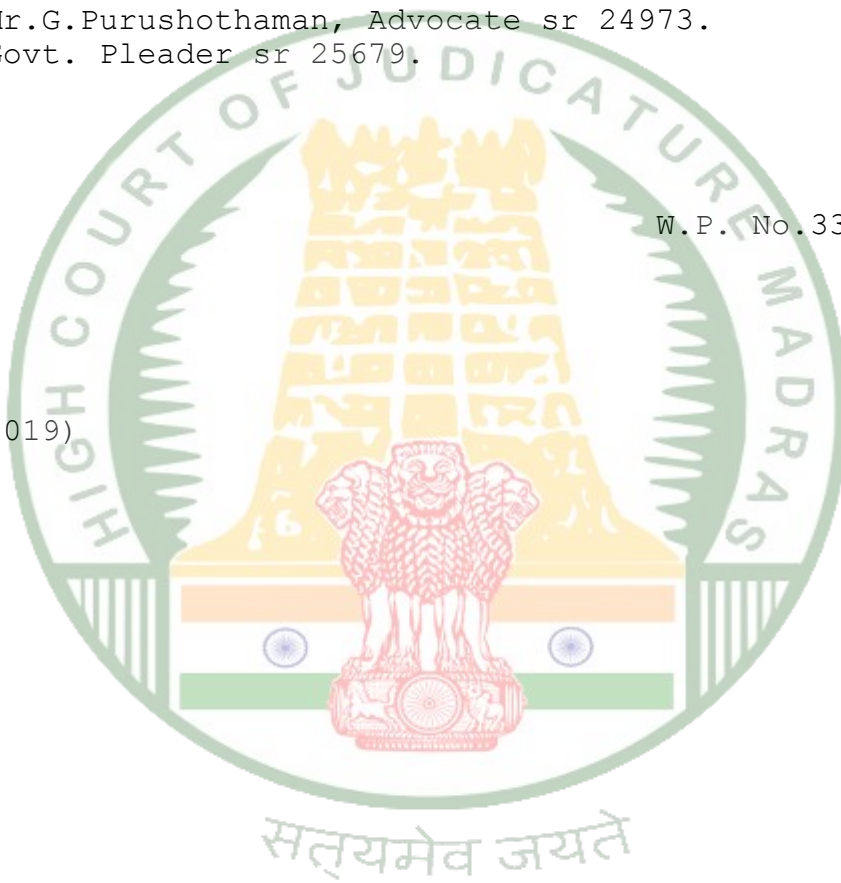
3.The Special Deputy Collector CMDA/
The Special Tahsildar,
Land Acquisition,
Madras Metropolitan Road,
Development Scheme,
Saidapet, Chennai - 600 015

+2 CC to Mr.G.Purushothaman, Advocate sr 24973.

+1 CC to Govt. Pleader sr 25679.

W.P. No.33876 of 2018

NRL (CO)
SP (06/05/2019)



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