

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :17.02.2020
CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No. 11831 of 2013

1. T. Ashok Kumar
2. T. Suchendran
3. T. Logeswaran

...Petitioners

-vs-

1. The Secretary to Government,
Highways and Minor Ports Department,
St. Fort George, Chennai.
2. The District Revenue Officer, Thiruvallur.
3. The Assistant Divisional Engineer,
Highways and Rural Works,
194/4, Anna Salai, Saidapet,
Chennai -600 015.
4. The Special Deputy Collector,
(Land Acquisition)
Tamil Nadu Urban Development Project III,
Poonamallee.

... Respondents

PRAYER : Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records pertaining to Gazette Notification in G.O.Ms. No.277 dated 22.09.2010 issued by the 1st respondent in respect of Old S.No.1092/3 situated at Madhavaram Village, Madhavaram Taluk, Thiruvallur District and consequential Award passed in Award No.8 of 2011 dated 15.12.2011 passed by the 2nd respondent and quash the same as null and void.

For Petitioners : Mr.M.Muthappan

For Respondents : Mr.M.Elumalai
Government Advocate

ORDER

Heard Mr. M. Muthappan, learned counsel for the petitioners and Mr.M. Elumalai, learned Government Advocate for the respondents.

2. With consent of learned counsel on either side, this writ petition itself is taken up for final disposal.

3. This writ petition has been filed praying for issuance of a writ of certiorari, to quash the notification issued by the 1st respondent in G.O.Ms.No.277 dated 22.09.2010 and the consequential award in Award No.8 of 2011 dated 15.12.2011.

4. The lands in question were notified for acquisition for the purpose of construction of a Grade Separator at the intersection of GNT Road at Km 8/6 of Moolakadai at Madhavaram in Ward - C, Block-61 and it having already been decided that the entire amount of compensation to be awarded for the land was to be paid out of the funds controlled and managed by the Chief Engineer (Metro), Highways Department, Alandur, Chennai - 16 and accordingly the notice under Sub-Section(1) of Section 15 of the Tamil Nadu Highways Act, 2001 (for brevity 'the Act') was issued.

5. The revenue records stood in the name of Thiruvengadam, the father of the petitioners. From the counter affidavit filed by the 4th respondent, it appears that the notices were served on the petitioners' father, who has received the notices. However, the petitioners now allege that notices have not been served. This appears to be a wrong statement.

6. The sheet anchor, case of the petitioners' is that the old survey number of the property has been wrongly mentioned in acquisition notifications as well as in the award. The land, which has been notified for acquisition has been assigned the Town survey number and the number is T.S.No.5. The notification states that the corresponding old survey number is 1092/4A1. The petitioners' case is that they are not claiming any title over the land in old survey No.1092/4A1 as they own the lands in old survey No. 1092/3. Therefore, it is contended that the acquisition proceedings are wholly vitiated.

7. From the counter affidavit, it is seen that a mistake has crept in while mentioning the old survey number instead of 1092/3, it has been mentioned as 1092/4A1. This mistake is accepted in the counter affidavit and it is explained by stating that on enquiry being conducted by the Special Deputy Collector (LA), it was informed by the Tahsildar, Alandur, by proceedings dated 27.04.2012 that correct old survey number corresponding to T.S.No.5 is 1092/3. However, by then, the notification were already been issued and award has already been passed. However, what is important to note is that the identity of the property was not in dispute. The four boundaries were not in dispute and the extent of the property though there was a small dispute. The same has been correctly rectified and shown as 150 sq. mts. Thus, the petitioners cannot now take advantage of the fact, the mistake which has crept in while mentioning the old survey number. In fact mentioning of the old survey number may not be of much relevance because town survey number has been issued and the

notification proceeds based on the town survey number, the extent, the boundaries and identity. Therefore, on the ground raised by the petitioners, the acquisition proceedings cannot be quashed. That apart, the lands have been handed over and the Grade Separator has already been erected.

8. That apart, Award No.8 of 2011 was passed on 15.12.2011 and the compensation payable was computed at Rs.22,14,000/- and has been deposited before the Sub Court, Ponneri, on 10.07.2013 as per the proof submitted by the learned Government Advocate. Therefore, the petitioners or his legal heirs have to approach the Sub Court, Ponneri, for withdrawal of the compensation amount deposited. One other question, which would arise is with regard to claim for enhanced compensation. In this regard, the petitioners have given a representation on 09.02.2012, which has been received in the Office of the 4th respondent on 13.02.2012, as could be seen from the seal and the endorsement. The copy of the representation has been produced by the learned Government Advocate before this Court. Therefore, by now the 4th respondent should have referred the matter to the Civil Court for determination of enhanced compensation. More particularly, when the compensation, which was arrived at in Award No. 8 of 2011 dated 15.12.2011 has been deposited in the Sub Court, Ponneri on 10.07.2013.

9. In the light of the above discussion, challenge to the acquisition proceedings has to fail. However, this Court is inclined to issue directions to the authority to refer the matter claimed by the petitioners for enhanced compensation to the Sub Court, Ponneri.

In the result, the writ petition is dismissed with a direction to the 4th respondent to consider the petitioners' representation dated 09.02.2012 and refer the matter to the Sub Court, Ponneri, for claiming enhanced compensation within a period of four(4) weeks from the date of receipt of a copy of this order. No costs. Connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

The Secretary to Government,
Highways and Minor Ports Department,
St. Fort George, Chennai.

2. The District Revenue Officer, Thiruvallur.

3. The Assistant Divisional Engineer,
Highways and Rural Works,
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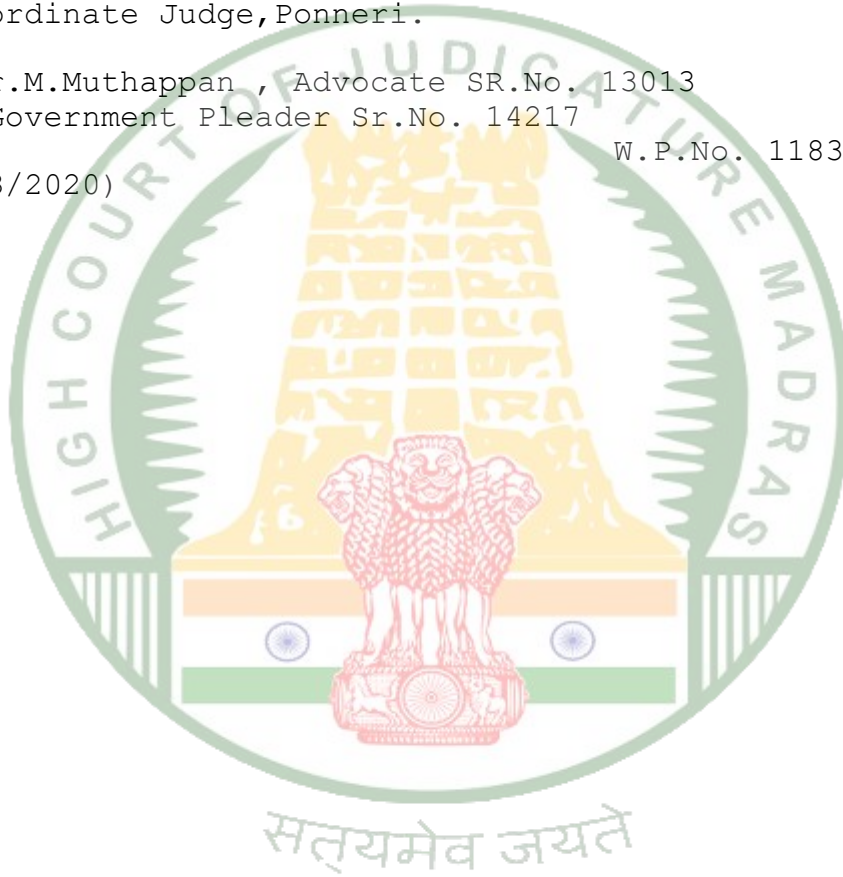
5. The Subordinate Judge, Ponneri.

+1cc to Mr.M.Muthappan , Advocate SR.No. 13013

+1 cc to Government Pleader Sr.No. 14217

W.P.No. 11831 of 2013

A.SK(17/03/2020)



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