

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 16.12.2020
CORAM
THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WP.Nos.18564, 18567, 18580, 18585, 18588 & 18590/2020
and W.M.P.Nos.23015, 23016, 23019, 23022, 23055, 23056, 23058
& 23059 of 2020

E.Annamalai	..	Petitioner in W.P.No.18564/2020
V.Venkatesan	..	Petitioner in W.P.No.18567/2020
K.Velayutham	..	Petitioner in W.P.No.18580/2020
K.Venkatesan	..	Petitioner in W.P.No.18585/2020
K.Murugan	..	Petitioner in W.P.No.18588/2020
V.Gnanasekaran	..	Petitioner in W.P.No.18590/2020

Versus

- 1.The Special District,
Revenue Officer (LA)
National Highways 45-A,
Cuddalore, Cuddalore Taluk,
Cuddalore District.
- 2.The Special Tahsildar (LA)
National Highways 45-A,
Cuddalore, Cuddalore Taluk,
Cuddalore District.
- 3.The Joint Commissioner,
Tamil Nadu Hindu Religious &
Charitable Endowment Board,
Villupuram, Villupuram Taluk,
Villupuram District.
- 4.The Executive Officer,
A/M Thiruchopuranathar Thirukoil,
Thiruchopuram,
Cuddalore Taluk,
Cuddalore District.

.. Respondents in all W.Ps

Prayer in all W.Ps:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for records and quash the proceedings of the 3rd respondent in RC.No.4367/2020/b2, RC.No.4371/2020/b2, RC.No.4369/2020/b2, RC.No.4360/2020/b2, RC.No.4365/2020/b2, RC.No.4370/2020/b2 dated 28.09.2020 and consequently directing respondents 1 and 2 to pay the compensation amount payable for the building situate upon S.Nos.514/6-4700 sq.ft, 513/2-3146 sq.ft, 514/8-1767 sq.ft, 514/1-3344 sq.ft, 514/7-2030 sq.ft, and 514-9-822 sq.ft in Poovanikuppam Village, Kurinjipadi Taluk, Cuddalore District and 30% of the value of site together with all other amounts

payable as per the National Highways Act, 1956.

For Petitioner in all W.Ps : Mr.D.Baskar

For RR 1 to 2 in all W.Ps : Mr.M.Elumalai
Additional Government Pleader

For RR 3 and 4 in all W.Ps. : Mr.M.Karthikeyan
Special Government Pleader (HR&CE)

COMMON ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J. through video conferencing]

All the Writ Petitions are taken up together and disposed of by this common order as the issue raised and to be adjudicated is one and the same.

W.P.No.18564/2020:

The petitioner claims that on a property admeasuring an extent of 4700 sq.ft in S.F.No.514/6 in Poovanikuppam Village, Kurinjipadi Taluk, Cuddalore District, which belongs to the 4th respondent Temple, the petitioner has put up a house, which is worth at least Rs.10,00,000/- and he is residing in the said property for not less than 100 years from the time of his forefathers. The petitioner in paragraph no.4 of the affidavit took a stand that since the respondents 3 and 4 have not fixed any rent, the question of paying the rent did not arise and fair rent has to be fixed by the Fair Rent Committee under Section 34A of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959. The petitioner would further submit that the respondents 1 and 2 had initiated acquisition proceedings under the National Highways Act, 1956 and effected publication under Sections 3D and 3G(3) of the Act in the vernacular language of Tamil on 11.04.2019, informing that the property is proposed to be acquired for expansion of National Highways 45-A (NH-45A).

W.P.No.18567/2020:

The petitioner claims that on a property admeasuring an extent of 3146 sq.ft in S.F.No.513/2 in Poovanikuppam Village, Kurinjipadi Taluk, Cuddalore District, which belongs to the 4th respondent Temple, the petitioner has put up a house, which is worth at least Rs.10,00,000/- and he is residing in the said property for not less than 100 years from the time of his forefathers. The petitioner in paragraph no.4 of the affidavit took a stand that since the respondents 3 and 4 have not fixed any rent, the question of paying the rent did not arise and fair rent has to be fixed by the Fair Rent Committee under Section 34A of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959. The petitioner would further submit that the respondents 1 and 2 had initiated acquisition proceedings

under the National Highways Act, 1956 and effected publication under Sections 3D and 3G(3) of the Act in the vernacular language of Tamil on 11.04.2019, informing that the property is proposed to be acquired for expansion of National Highways 45-A (NH-45A).

W.P.No.18580/2020:

The petitioner claims that on a property admeasuring an extent of 1767 sq.ft in S.F.No.514/8 in Poovanikuppam Village, Kurinjipadi Taluk, Cuddalore District, which belongs to the 4th respondent Temple, the petitioner has put up a house, which is worth at least Rs.7,00,000/- and he is residing in the said property for not less than 100 years from the time of his forefathers. The petitioner in paragraph no.4 of the affidavit took a stand that since the respondents 3 and 4 have not fixed any rent, the question of paying the rent did not arise and fair rent has to be fixed by the Fair Rent Committee under Section 34A of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959. The petitioner would further submit that the respondents 1 and 2 had initiated acquisition proceedings under the National Highways Act, 1956 and effected publication under Sections 3D and 3G(3) of the Act in the vernacular language of Tamil on 11.04.2019, informing that the property is proposed to be acquired for expansion of National Highways 45-A (NH-45A).

W.P.No.18585/2020:

The petitioner claims that on a property admeasuring an extent of 3344 sq.ft in S.F.No.514/1 in Poovanikuppam Village, Kurinjipadi Taluk, Cuddalore District, which belongs to the 4th respondent Temple, the petitioner has put up a house, which is worth at least Rs.20,00,000/- and he is residing in the said property for not less than 100 years from the time of his forefathers. The petitioner in paragraph no.4 of the affidavit took a stand that since the respondents 3 and 4 have not fixed any rent, the question of paying the rent did not arise and fair rent has to be fixed by the Fair Rent Committee under Section 34A of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959. The petitioner would further submit that the respondents 1 and 2 had initiated acquisition proceedings under the National Highways Act, 1956 and effected publication under Sections 3D and 3G(3) of the Act in the vernacular language of Tamil on 11.04.2019, informing that the property is proposed to be acquired for expansion of National Highways 45-A (NH-45A).

W.P.No.18588/2020:

The petitioner claims that on a property admeasuring an extent of 2030 sq.ft in S.F.No.514/7 in Poovanikuppam Village, Kurinjipadi Taluk, Cuddalore District, which belongs to the 4th respondent Temple, the petitioner has put up a house, which is worth at least Rs.7,00,000/- and he is residing in the said property for not less than 100 years from the time of his forefathers. The petitioner in paragraph no.4 of the affidavit took a stand that since the respondents 3 and 4 have not fixed

any rent, the question of paying the rent did not arise and fair rent has to be fixed by the Fair Rent Committee under Section 34A of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959. The petitioner would further submit that the respondents 1 and 2 had initiated acquisition proceedings under the National Highways Act, 1956 and effected publication under Sections 3D and 3G(3) of the Act in the vernacular language of Tamil on 11.04.2019, informing that the property is proposed to be acquired for expansion of National Highways 45-A (NH-45A).

W.P.No.18590/2020:

The petitioner claims that on a property admeasuring an extent of 822 sq.ft in S.F.No.514/9 in Poovanikuppam Village, Kurinjipadi Taluk, Cuddalore District, which belongs to the 4th respondent Temple, the petitioner has put up a house, which is worth at least Rs.7,00,000/- and he is residing in the said property for not less than 100 years from the time of his forefathers. The petitioner in paragraph no.4 of the affidavit took a stand that since the respondents 3 and 4 have not fixed any rent, the question of paying the rent did not arise and fair rent has to be fixed by the Fair Rent Committee under Section 34A of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959. The petitioner would further submit that the respondents 1 and 2 had initiated acquisition proceedings under the National Highways Act, 1956 and effected publication under Sections 3D and 3G(3) of the Act in the vernacular language of Tamil on 11.04.2019, informing that the property is proposed to be acquired for expansion of National Highways 45-A (NH-45A).

2. The learned counsel appearing for the petitioners would submit that in the light of the said notification, the 3rd respondent has issued the impugned proceedings under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959, and it is per se unsustainable and prays for quashment of the same. The learned counsel appearing for the petitioners has drawn the attention of this Court to Sections 3 (D) and 3(G)(3) of the State Highways Act and would submit that in the light of the initiation of the said proceedings by the respondents 1 and 2, the jurisdiction of the 3rd respondent to issue a notice under Section 78(2) of the State Highways Act, is totally ousted and still the petitioners are in possession and enjoyment of the respective extent of lands in various Survey numbers and also put up constructions / superstructures, by spending a considerable amount and prays for appropriate orders.

3. Mr.M.Elumalai, learned Additional Government Pleader accepts notice on behalf of the respondents 1 and 2 and Mr.M.Karthikeyan, learned Special Government Pleader (HR&CE) accepts notice on behalf of the respondents 3 and 4 and on instructions would submit that the petitioners are not clear about their case and impliedly admitted the ownership of the

lands, sought to be acquired by the respondents 1 and 2, in favour of the 4th respondent and though they claim that their forefathers were in possession and though continue to remain in possession and also put up superstructure at considerable cost, no specific averment have been made in the affidavit, filed in support of these Writ Petitions as well as the typed set of documents and it is only deliberate facts adduced by them to prevent the land utilised for public purpose and prays for dismissal of this Writ Petition.

4. This Court has considered the rival submissions and also perused the material placed before it.

5. A Perusal of the notification issued by the National Highways Authority of India (NHAI) would indicate that the persons concerned were called upon to appear either in person or through lawyer, along with relevant and authenticated documents. As rightly pointed out by the learned Special Government Pleader appearing for the Hindu Religious and Charitable Endowment Department, the petitioners did not admit the ownership of the land in question in favour of the 4th respondent and curiously took a stand in paragraph no.4 of the affidavit that since respondents 3 and 4 did not fix any rent, the question of paying rent do not arise.

6. In the light of the said averments, the petitioners are deemed as squatters and though they made averments as to the long possession and ownership of the land in question, no even an iota of materials have been produced in support of this submissions and that apart, they said to have put up superstructures and residing in the said properties and however, it is not clear from the affidavit filed in support of this Writ Petition as to whether any planning permission / permits have been obtained to put up such lavish constructions.

7. In the absence of any tenable, relevant and sufficient materials, the case projected by the petitioners in these writ petitions do not deserves any consideration. Thus the Writ Petitions absolutely lacks merit and substance and deserves dismissal.

8. Accordingly, these Writ Petitions are dismissed. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The Special District,
Revenue Officer (LA)
National Highways 45-A,
Cuddalore, Cuddalore Taluk,
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4.The Executive Officer,
A/M Thiruchopuranathar Thirukoil,
Thiruchopuram,
Cuddalore Taluk, Cuddalore District.

+1 cc to Government Pleader Sr.No. 41683

+2ccs to Mr.D.Baskar , Advocate SR.No. 41442

+1 cc to Spl Government Pleader(HR & CE)

Sr.No.42097,42098,42099,42100

W.P.Nos.18564, 18567, 18580,
18585, 18588 & 18590/2020

A.SK(24.02.2021)

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