



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.01.2020

CORAM:

THE HONOURABLE **MR.JUSTICE R.SUBRAMANIAN**

S.A. (MD)No.56 of 2015

and

M.P. (MD)No.1 of 2015

P.Eeaswari,
Rep. By her Power Agent
P.Jeyaprakash

... Appellant / Appellant /
Plaintiff

Vs.

1.The State of Tamilnadu,
Rep. by its District Collector,
Karur District, Thanthonimalai,
Karur Taluk.

2.The Revenue Divisional Officer,
Revenue Divisional Office,
North Pradhakshnam Road,
Karur.

3.The Special Tahsildar (LA),
Pugalur, Moolimangalam Extension Road,
Sub Collector's Office,
North Pradhakshnam Road,
Karur.

4.The Village Administrative Officer,
Punjai Pugalur North Village,
Karur Taluk.

... Respondents / Respondents /
Defendants

PRAYER: This Petition filed under Section 100 of Civil Procedure Code, against the judgment and decree dated 19.03.2014 passed in A.S.No.47 of 2013, by the Principal Subordinate Judge, Karur, confirming the judgment and decree dated 13.12.2012 passed in O.S.No.193 of 2011 by the Principal District Munsif, Karur.

For Appellant : Mr.V.Perumal

For Respondents : Mr.N.Shanmugaselvam
Additional Government Pleader



JUDGMENT

The plaintiff in O.S.No.193 of 2011, whose suit for permanent injunction restraining the defendants from interfering with the plaintiff's peaceful possession was dismissed by the trial Court upon the affirmation of the said judgment and decree by the lower appellate court in A.S.No.47 of 2013, has come up with this Second Appeal.

2. According to the plaintiff, the suit property measuring about 5 cents of land in Pugalur village belonged to the plaintiff by the purchase from one Sembannan, S/o. Nallappa Gounder and his sons under sale deed, dated 13.03.1989 for valid consideration of Rs.6,000/-. It is also stated that the plaintiff has deposited the original sale deed with State Bank of India, Karur main branch and availed certain loan facilities. It is also claimed that ever since from the date of purchase, the plaintiff is in enjoyment of the property. It is also claimed that the patta was also granted to the plaintiff in recognition of her title. It is also averred in the plaint that the defendants proposed to acquire the property of the plaintiff as well as the adjacent owners for widening the road between Karur and Salem. It is stated that the second defendant vide his proceedings dated 02.03.2000 directed the defendants 3 and 4 to acquire the lands in Survey Field No.560/2A2 of Punjai Pugaloor North village. It is stated by the plaintiff that no notice was issued and all of a sudden, the defendants attempted to trespass into the property and lay a road. The plaintiff claimed compensation. It was represented that the compensation will be paid soon after verifying the records. According to the plaintiff, she subsequently discovered that the compensation for the property has been paid over to the sons of her vendor Sembannan. Therefore, according to the plaintiff, the land acquisition proceedings were initiated behind her back without notice to her and as such, she is entitled for injunction.

3. The suit was resisted by the defendants contending that the claim of the plaintiff that she has purchased the property under sale deed, dated 13.03.1989 from Sembannan is not known to them. The acquisition proceedings were strictly carried out in accordance with law based on the entries made in the revenue records and the plaintiff never made a claim before passing of the award on 26.08.2002. It is only after passing of the award and payment of the award amount to the heirs of Sembannan, the original owner, the plaintiff made a claim and she was informed that the entire compensation has already been paid over to the heirs of Sembannan Gounder. Since the land acquisition proceedings have been taken in accordance with law, the plaintiff cannot maintain the present suit for permanent injunction.

4. The Courts below upon consideration of the evidence on record, accepted the defendants plea and found that the very suit as



framed for permanent injunction cannot be maintained. The Courts below also observed that it is for the plaintiff to sue her vendors for recovery of the compensation received by them. The Courts below also adverted to the fact that Section 52 of Land Acquisition Act, 1894, bars the Civil Suit challenging the land acquisition proceedings without notice as contemplated under the said Section. Aggrieved by the said dismissal of the suit, the plaintiff has come up with this Second Appeal.

5.I have heard Mr.V.Perumal, learned counsel appearing for the appellant and Mr.N.Shanmugaselvam, learned Additional Government Pleader appearing for the respondents.

6.The following questions of law were framed at the time of admission:-

"1) Have not the Courts below erred in granting a decree of injunction when the appellant has proved his legal possession over the suit property?

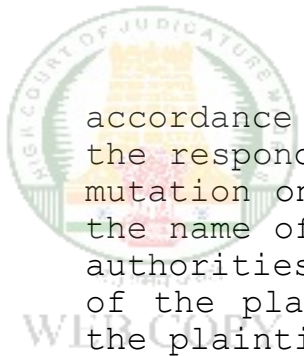
2) Have not the Courts below erred in not considering the provisions of the Land Acquisition Act in acquiring a residential area by applying the same year stick as to that of a vacant land?

3) Have not the Courts below erred in not considering that it is the duty of the respondents to recover the compensation amount from the persons who have illegally received the same by deceiving the Government?

4) Have not the Courts below erred in not considering that the respondents / defendants are at liberty to pay the compensation amount to the appellant and recover the same from the persons alleged to have received the same?"

7.Mr.V.Perumal, the learned counsel appearing for the appellant would vehemently contend that once the plaintiff has purchased the property, even in the year 1989 under a registered sale deed, the authorities are bound to issue notice to her. The entire land acquisition proceedings taken behind her back are not valid and therefore, the defendants have no right to interfere with her possession of the property.

8.The Courts below had taken note of the fact that the land acquisition proceedings were commenced and proper notices were issued to the vendors of the plaintiff, since there was no mutation of the revenue records infavour of the plaintiff and the award was passed as early as on 30.07.2002 . The vendors of the plaintiff have also received the award amount. Therefore, the Courts below concluded that the plaintiff cannot now maintain a suit for permanent injunction restraining the defendants from interfering with her possession of the property, more so, when the land acquisition proceedings have been taken and have been completed in



accordance with law. The revenue records that have been produced by the respondents before the Courts below established that there is no mutation on the same and the suit property continued to be stand in the name of the vendor of the plaintiff and his sons. Therefore, the authorities cannot be blamed for issuing the notices to the vendors of the plaintiff. It is also seen that till passing of the award, the plaintiff has not raised her little finger and she has chosen to file a suit only in the year 2011 seeking a permanent injunction. The inaction of the plaintiff for more than 9 years since passing of the award would infact disentitle the plaintiff to the discretionary relief of permanent injunction. Adverting to the questions of law framed, the defendants have produced records to show that possession was taken after issuing notification under Section 13 of the Tamil Nadu Survey and Boundaries Act, 1923 and the lands were also handed over to the Highways Department for widening the road. This would demonstrate that the plaintiff is not in possession of the property. Hence, the first question of law is answered against the appellant.

9. There is no difference in the procedure to be followed for acquisition of land depending upon the nature of the land. Whatever be the nature of the land, the procedure under the Act has to be followed. The plaintiff having purchased the property in the year 1989 and having omitted to get the revenue records mutated in her name for over 13 years cannot claim that the authorities erred in sending notices to her vendors in whose name the revenue records stood. This Court has upheld the procedure that was followed by the land acquisition authorities in sending notices to the persons in whose name the revenue records stood as the date of notification, unless it is shown that the authorities were informed of the ownership of some other person during 5A enquiry or at a later stage before passing of the award. Therefore, the second question of law regarding the procedure to be followed in acquisition of residential plots is also answered against the appellant.

10. The third and fourth questions of law read as follows:-

"3) Have not the Courts below erred in not considering that it is the duty of the respondents to recover the compensation amount from the persons who have illegally received the same by deceiving the Government?"

4) Have not the Courts below erred in not considering that the respondents / defendants are at liberty to pay the compensation amount to the appellant and recover the same from the persons alleged to have received the same?"

11. The prayer in the suit reads as follows:-

"a) for permanent injunction restraining the defendants, their men, agents, servants, subordinates or any one on behalf of them from interfering in any manner in the plaintiff's peaceful possession and enjoyment of the suit property till the just and equitable compensation is to be paid to the plaintiff;



b) directing the defendants to pay the costs of the suit to the plaintiff's; and
c) granting such other and further reliefs as this Hon'ble Court deems fit and proper in the nature and circumstances of the case and thus render justice."

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12.The suit is for permanent injunction restraining the defendants from interfering with the plaintiff's peaceful possession and enjoyment of the suit and therefore, question of recovering the compensation from the vendors will not arise. It was open to the plaintiff to sue her vendors for realising the compensation and unfortunately, the plaintiff did not chose to resort to that remedy. Hence, the third and fourth questions of law do not really arise in the case on hand.

13.In view of the answers to the questions of law framed, the Second Appeal fails and it is accordingly, dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1.The Principal Subordinate Judge, Karur.

2.The Principal District Munsif, Karur.

3.The District Collector,
Karur District, Thanthonimalai,
Karur Taluk.

4.The Revenue Divisional Officer,
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5.The Special Tahsildar (LA),
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6.The Village Administrative Officer,
Punjai Pugalur North Village,
Karur Taluk.

Copy to:

The Section Officer, (2 Copies)

VR Section,

Madurai Bench of Madras High Court, Madurai.

+2 CC to M/s.V.PERUMAL, Advocate (SR-704[F] dated 08/01/2020)

+1 CC to M/s.SPL.GP (SR-1011[F] dated 09/01/2020)

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and

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