

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2021

CORAM

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

W.P. No.2966 of 2021

S. Kavitha

...

Petitioner

Vs

1.The Managing Director,
Chennai Metro Railway Project,
Koyambedu,
Chennai - 107.

2. The Special Tahsildar,
Land Acquisition, Chennai
Zone-2, Chennai Metro Railway Project,
Koyambedu,
Chennai 107.

...

Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 2nd respondent to release the compensation due under the acquisition proceedings of land acquired for Chennai Metro Rail Project in S.No.207, Koyambedu Village, pending for Flat No.8/328, Poonga Apartments, 2nd Avenue, Anna Nagar West, Chennai 600 040 in accordance with law within a specific time framed by this Court based on the petitioner's representation dated 14.12.2018 addressed to the 2nd respondent.

For petitioner

... Dr. P. Vasudevan

For respondents

... Mr. D. Raja, AGP,
for R2

Mr. Jeyesh B. Dolia
for R1

ORDER

This writ petition has been filed seeking a direction to the second respondent to pay the compensation for the land acquired by the first respondent in S.No.207, Koyambedu Village, pending for Flat No.8/328, Poonga Apartments, 2nd Avenue, Anna Nagar West, Chennai , through a Registered Sale Deed dated 04.07.2016.

2. The grievance of the petitioner is that the petitioner

entered into an agreement with the previous owner of the property, namely K.Mahalakshmi, in Flat No.8/328, Poonga Apartments 2nd Avenue, Anna Nagar West, Chennai, on 05.05.2016 and subsequently, he purchased the same through a registered sale deed dated 20.11.2018. After purchasing the property, the petitioner came to know that the land and the apartment was subjected to land acquisition proceeding and an award was also passed in the year 2012. Thereafter, the petitioner made a representation to the second respondent on 14.12.2018 seeking payment of compensation. That representation was not considered. Hence, the present writ petition has been filed.

3. The second respondent filed a counter affidavit stating that the land was acquired for Metro Rail Project, totally, there are 42 flats and award was also passed in respect of all the 42 owners. So far as the flat belongs to this petitioner is concerned, award was passed in the name of his vendor one Mahalakshmi for a sum of Rs.9,19,560/-. Since the said Mahalakshmi did not turn up for enquiry, the amount has been deposited in the Revenue Deposit on 21.08.2012. This petitioner said to have purchased the property in the year 2018, did not appear before the authority and produce necessary documents. The petitioner is only a subsequent purchaser of the property. Hence, she cannot claim compensation from the authority.

4. The learned counsel for the petitioner would submit that admittedly, the sale deed has been executed by the Housing Board in favour of the petitioner's vendor, namely Mahalakshmi before the acquisition. Thereafter, in the year 2016, the petitioner without knowing the acquisition proceedings entered into a sale agreement with the said Mahalakshmi and subsequently, sale deed was also executed on 20.11.2018, which was duly registered. Now the vendor is residing in USA and she is not in a position to come back to India to receive the compensation. He would further submit that the petitioner is also ready and willing to get an affidavit from her vendor authorizing the petitioner to receive the compensation and file it before the authority .

5. Per contra, the learned counsel appearing for the first respondent would submit that challenging the award, the other flat owners seeking enhancement of compensation filed LAOP No.23 of 2012. Subsequently, the matter has been settled between the parties and the award was also passed in the Lok Adalat. Even in the above proceedings, the vendor of the petitioner did not participate and also did not come forward to receive the amount.

6. Mr.D.Raja, the learned Additional Government Pleader, appearing for the 2nd respondent would submit that Mahalakshmi is the owner of the property at the time of acquisition and hence, award was also passed in her name. The petitioner has

purchased the property only in the year 2018, and she never appeared before the second respondent, Acquisition Officer, making any claim except sending representations. In the said circumstances, the second respondent is not in a position to consider the petitioner's representation. He has also submitted that if at all the petitioner validly purchased the property from Mahalakshmi, it is for her to prove the same before the authorities seeking compensation and oppose the writ petition.

7. I have considered the rival submissions made on either side and perused the materials available on records carefully.

8. Admittedly, the award was passed in the year 2012 and at the time of passing award, the property stands in the name of the petitioner's vendor. Subsequently, in a LAOP proceedings, the matter has been settled between the parties and award was also passed in the Lok Adalat. It is also admitted case that the petitioner has purchased the property in the year 2018, after the passing of award. Now, it is stated that the original owner of the flat is residing in USA and she is not in a position to come to India to receive the compensation. The petitioner being the subsequent purchaser, she is not entitled to receive the compensation without authorisation of her vendor.

9. Considering the above circumstances, the petitioner is directed to get an authorization from his vendor and produce the same before the second respondent along with the sale deed executed by the Housing Board in favour of her vendor and also the subsequent sale deed executed in favour of the petitioner within a period of eight weeks from the date of receipt of a copy of this order. On filing such documents, the second respondent is directed to consider the petitioner's request and pass suitable orders, within a period of three (3) weeks thereafter.

10. With the above directions, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

mrp

To

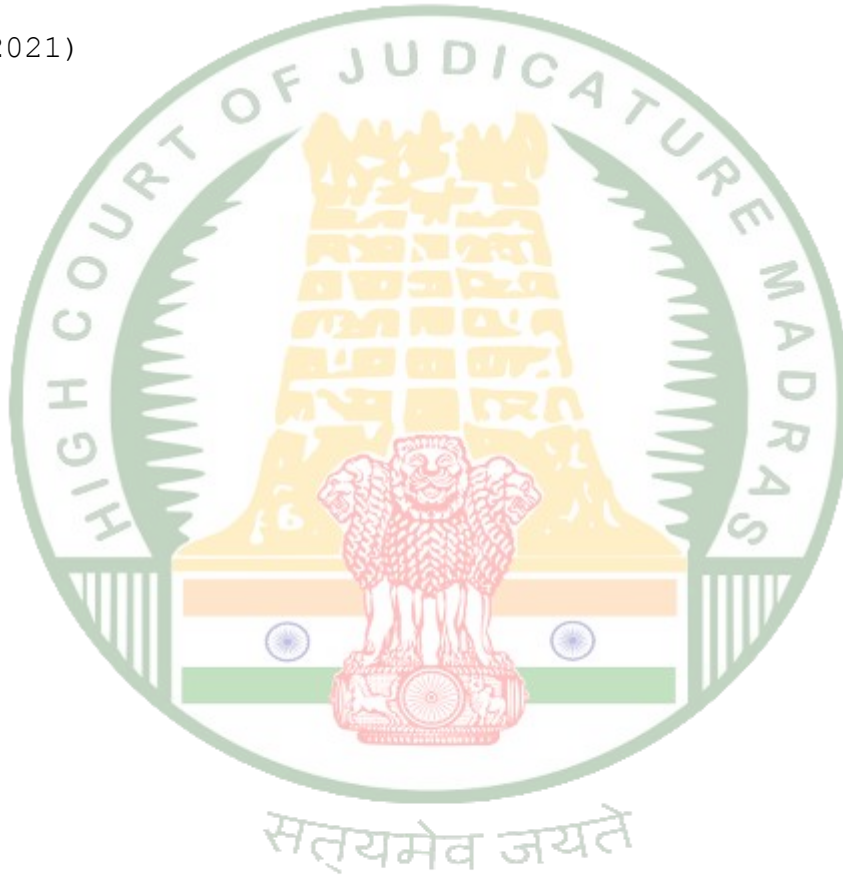
1.The Managing Director,
Chennai Metro Railway Project,
Koyambedu, Chennai-107.

2.The Special Tahsildar,
Land Acquisition, Chennai,
Zone-2, Chennai Metro Railway Project,
Koyambedu, Chennai-107.

+1cc to Dr.P.Vasudevan, Advocate, S.R.No.23794
+1cc to Mr.Jayesh B Dolia, Advocate, S.R.No.23910
+1cc to the Government Pleader, S.R.No.23681

W.P. No. 2966 of 2021

PCH(CO)
CB(01/06/2021)



WEB COPY