



WEB COPY

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 13.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.28459 of 2016
and W.M.P.No.24568 of 2016

Uthamchand Jain

...

Petitioner

-Vs-

1.Land Acquisition Officer and Special Tahsildar
Land Acquisition, Chennai Metro Rail Limited
Koyambedu, Chennai 600 107.

2.Suseela Bai

3.Sureshkumar Jain

4.Sumithrabai

5.Lalithkumar Jain

6.Vinodkumar Jain

7.Mahaveerchand Jain

..

Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the first respondent to deposit the compensation amounts to the Court credit of the suit in C.S.No.467 of 2015 filed by the petitioner herein, pending on the file this Court.

For Petitioner :Mr.S.Babu for Mr.V.Anand

For Respondents:Ms.Akila Rajendran,

Government Counsel - for R1

Mr.S.Sadasharam - for RR 3 and 5 to 7

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the first respondent to deposit the compensation amounts to the Court credit of the suit in C.S.No.467 of 2015 filed by the petitioner herein, pending on the file of the Hon'ble High Court, Madras.



2. The property situated in D.No.17/18 Part, New Door No.49/2, Ramanuja Iyer Street, Old Washermenpet comprised in R.S.No.2554/2 measuring to an extent of 1788 Sq.ft, according to the petitioner, belongs to him and in this regard, he filed a civil suit in C.S.No.467 of 2015 for partition against the private respondents herein.

3. While that being so, it is the further case of the petitioner that, the first respondent had issued a notification intending to acquire the vast extent of land at S.No.2554/2 Tondiyarpur Village for the purpose of Metro Rail Work under the provisions of Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997.

4. Only in that context, the petitioner since had already filed a civil suit with regard to the said property for partition with the private respondents, as an abundant caution that, if the acquisition proceedings is proceeded with by the first respondent, the respondents 2 to 7 herein may participate in the said proceedings and if any award is passed by way of compensation, they may receive it, instead, since the issue has been pending in the Civil Court and award amount if any, awarded towards the compensation of the land sought for to be acquired, it can be directed to be deposited in the said civil suit account. Therefore, only to get such a direction, this writ petition has been filed.

5. However, when the case is taken up for hearing, during the last occasion, orally it was submitted on behalf of the official respondent that, the land in question belongs to the petitioner / private respondents had not been acquired and there is no idea for the first respondent to acquire the lands belonging to the parties in this writ petition and in this regard, in order to substantiate the contention, they wanted to file a counter affidavit.

6. Accordingly, today the first respondent has filed a counter affidavit dated 12.07.2021, wherein, inter alia the first respondent has stated the following.

" 4. It is respectfully submitted that while things being so, the Government have approved notification under subsection (1) of Section 3 of Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (Act 10 of 1999) in G.O.Ms.No.31, Planning, Development and Special Initiatives (SI) Department dated 04.03.2016 for acquisition of land over an extent of 16329.06 sq.metres (or) 175766 sq.ft in S.Nos.2554 etc., of Block No.41, of Tondiyarpur Village, Tondiyarpur Taluk, Chennai District for the



WEB COPY

formation of Theagaraya College Metro Station by the Chennai Metro Rail Limited.

5. It is respectfully submitted that as the petitioner's property is comprised in S.No.2554/2 of Block No.41 of Tondiarpet Village, the petitioner has presumed that the aforesaid pieces of land claimed by him and comprised in S.No.2554/2 part of Tondiarpet Village were also subject to Land Acquisition proceedings by CMRL. As there was a dispute between the petitioner and the other respondents arrayed as respondents 2 to 7, the petitioner has filed this Writ Petition with the aforesaid prayer.

6. As regards the averments of the petitioner set out in paras 4 and 5 of the affidavit, it is respectfully submitted that the said S.No.2554 is a vast extent of land. Out of it only a meagre portion of land was notified for acquisition and acquired. Both the petitioner's properties are not subject to Land Acquisition by CMRL as alleged by the petitioner. Only for abundant caution the petitioner has filed this writ petition with the aforesaid prayer. No notice was sent either to the petitioner or to the respondents to participate in the said acquisition proceedings. The question of payment of compensation did not arise either to the petitioner or to the respondents 2 to 7. For abundant caution, the said field has been inspected by me on 23.06.2021 and found that the subject property is not subjected to land acquisition by CMRL and that the question of payment of compensation does not arise."

7. By relying upon these averments made by the first respondent, the learned Government counsel appearing for the first respondent would submit that, though there was a proposal to acquire the lands covered in S.No.2554/2, since it is a large extent, as the entire extent was not required for Metro Rail, the acquisition proceedings was confined only to certain lands. Therefore, the present land belonging to the petitioner and the private respondents herein have not been acquired and there is no intention for the first respondent to acquire the said land in future also for expansion.

8. In view of the said stand taken by the first respondent, the question of paying any compensation in respect of the land belonging to the petitioner does not arise and therefore the aforesaid stand of the first respondent can be taken note of.



9. This position has been accepted by the learned counsel for the petitioner as well as the private respondents and in view of the categorical stand by the first respondent as has been recorded herein, even the prayer as sought for herein has become infructuous.

10. Accordingly, the writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

KST

To

The Land Acquisition Officer and Special Tahsildar
Land Acquisition, Chennai Metro Rail Limited
Koyambedu, Chennai 600 107.

+1cc to Special Government Pleader, S.R.No.33282

W.P.No.28459 of 2016

RP(CO)
CB(05/08/2021)