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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2021

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.NO.17514 OF 2021
AND W.M.P.NO.18615 OF 2021

J.Rajesh

...

Petitioner

.Vs.

1. The Government of Tamil Nadu,
Tamilnadu Highways Department,
Represented by its Secretary,
St. George Fort,
Chennai.
2. The Divisional Engineer (Highways),
Construction and Maintenance C&M,
City Roads Division,
Saidapet,
Chennai - 15.
3. The Assistant Divisional Engineer (Highways),
Construction and Maintenance (Tambaram Division)
Tamilnadu Highways Department,
Opposite to Velachery Railway Station,
Velachery,
Chennai - 600 042.
4. Chennai Metro Rail Limited,
Admin Building,
CMRL Depot,
Ponnamallee High Road,
Koyambedu,
Chennai - 600 107.
5. The Land Acquisition Officer/
District Revenue Officer
Chennai Metro Rail Project,
2nd floor, Admin Building,
CMRL Depot,
Ponnamallee High Road,
Koyambedu,
Chennai - 600 107.



6. The District Collector,
Chengelpet District,
Chengalpet.

7. The Tahsildhar,
Tambaram Taluk,
Chengelpet District.

... Respondents

Prayer:

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of a Writ of Mandamus to forbear the respondents authorities from acquiring or taking away the petitioner's land classified as "Grama Natham" comprised in old Survey No.262/1 part, newly sub divided as Survey Nos.452/12 and 452/13 of Medavakkam Village, Tambaram Taluk, Chengelpet and the building constructed therein in Door Nos.1/1091 and 1/1901A, Medavakkam main road, Periyar Nagar, Velakkal, Medavakkam, Chennai - 601302 without following the due process of law.

For Petitioner : Mr.N.Premkumar

For Respondents : Mr. V.Veluchamy for R1, R6 and R7
Government Advocate

Mr.Jayesh B. Dolia for R4 and R5

ORDER

This writ petition has been filed for a mandamus to forbear the respondents authorities from acquiring or taking away the petitioner's land classified as "Grama Natham" comprised in old Survey No.262/1 part, newly sub divided as S.Nos.452/12 and 452/13 of Medavakkam Village, Tambaram Taluk, Chengelpet and the building constructed therein in Door Nos.1/1091 and 1/1901A, Medavakkam main road, Periyar Nagar, Velakkal, Medavakkam, Chennai - 601302 without following the due process of law.

2.The case of the petitioner is that he is the absolute owner of the land measuring to an extent of 2100 sq. ft. of land and 2052 of land comprised in Old S.No.262/1, New S.Nos.452/12 and 452/13 of Medavakkam Village, Tambaram Taluk, Chengelpet District and residential house constructed therein Door No.1/1091A and Door No.1/1091 and the said property has been settled by his brother and sister to him vide Settlement dated 04.10.2013 in Document No.10109 of 2013 before the SRO, Saidapet, Chennai.



3.The petitioner submits that originally the above said lands measuring to an extent of 2100 sq. ft. of land comprised in Old No.262/1 Medavakkam Village belongs to one Mrs.Noorjahan having been purchased by her from one Mr.Elumalai on 27.02.1984 vide Document No.561/1984 and she sold the above said 2100 sq. ft. of land to one Ranjith Singh through Sale Deed dated 28.06.1990 vide Document No.2101 of 1990.

4.The petitioner further submits that another piece of land measuring to an extent of 2025 sq.ft. comprised in S.No.261/1 part of Medavakkam Village belongs to Mr.Abdul Majid having purchased by him from one Mr.Elumalai on 27.02.1984 vide Document No.562/1984 and he sold it to one Mr.Ponraj on 28.06.1990 vide Document No.496/1990.

5.According to the petitioner, the above said Ranjit Singh and Mr.Ponraj after the said purchase of the above said lands obtained permission from the Executive Officer, Medavakkam Town Panchayat Union and Building permission from Medavakkam Town Panchayat Union for construction of residential building, their vendors viz., Mr.Elumalai, Mrs.Noorjahan, Mr.Abdul Majid, Mrs.Ranjit Singh and Mr.Ponraj names were found in the Revenue Records (Adangal Extract/A Register) in respect of the lands in S.No.262/1 of Medavakkam Village for the period from 1980 to 2020 (fasli year 1390 to 1420) as owners of the land by classifying their land as "Grama Natham".

6.The petitioner submits that Ranjith Singh has sold the above said 2100 sq.ft. of land to his brother Mr.Magesh through Sale Deed dated 22.10.1997 vide Document No.4300 of 1997 and Mr.Ponraj sold the above said 2052 sq.ft. of land to his sister Ms.J.Sheela through Sale Deed dated 22.10.1997 vide Document No.4299 of 1997 and thus his brother Magesh and his sister Sheela were become the absolute owner of the said lands and they were in continuous possession of the said land by constructing residential building in the above said lands under the planning approval obtained by said Ranjith Singh and Ponraj, further electricity connection, water connection has been obtained to the said building and the said house building has also been assessed to the property tax by assigning Door Nos.1/1901 and 1/1901A.

7.The petitioner further submits that in the year 2013 his brother Magesh and his J.Sheela settled the above said lands measuring to an extent of 2100 sq.ft. of land and 2052 sq.ft. of land comprised in S.No.262/1 of Medavakkam Village together with the building constructed there in his favour through Settlement Deed dated 04.10.2013 vide Document No.10109/2013 before the SRO, Saidapet, Chennai and thus he become the absolute owner of



the above said land and building and he was in continuous possession and enjoyment of the same without any hindrance duly paying tax to the building.

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8. According to the petitioner, it is found in Thuya Chitta Extract obtained by them under RTI Act that their land (2100 sq.ft. of land and 2025 sq.ft.) has been now sub divided as New Survey Nos.452/12 and 452/13 (old Survey No.262/1 part) of Medavakkam Village by classifying as a "Grama Natham" vacant land.

9. The petitioner submits that they have also made representation dated 22.03.2021 to the Revenue Divisional Officer, Tambaram to mutate his name in the Revenue Records in respect of their land now newly subdivided as S.Nos.452/12 and 452/13 of Medavakkam Village since their name was inadvertently not mutated in the records and his brother and sister has also made a representation earlier on 12.08.2008 to mutate their names in the Revenue Records and to issue patta.

10. The petitioner further submits that in the first week of December 2020, some of the persons claiming under Chennai Metro Rail and the Revenue Divisional Officer, Tambaram Office has alleged that larger portion of his land in S.No.262/1 part (new S.Nos.452/12 and 452/13) is required for construction of Velakkal Metro Station in Corridor-5-41 and directed to clean and demolish the structures in their land and when they are questioned about that, no notice has been served them regarding such alleged acquisition of land, it was replied in that sense that no acquisition notice will be served for the Grama Natham land.

11. According to the petitioner, immediately on 14.12.2020 they have made a representation by enclosing all their title deeds, planning permission, Tax receipts of their property to the District Collector and the Land Acquisition Officer of Chennai Metro Rail Limited stating that their land has been classified as "Grama Natham" in the Revenue Records and it is well settled by the Court of law that "Grama Natham" land is not a Government land and it is not vested with the Government and the Government has no right to evict persons who are in occupation of lands classified as Grama Natham in the Revenue Records by invoking the provisions of the Tamil Nadu Land Encroachment Act, 1905, or any other enactment and it is always open to the Government to acquire the lands by paying compensation, if they are needed for any public purposes.



12.The petitioner submits that in the letter dated 14.12.2020 that their adjacent land owners whose land in S.No.452/6, 15 etc classified as "Grama Natham" were issued acquisition notice dated 11.11.2020 calling them show causing their objection for acquiring the said adjacent land and their land cannot be acquired without following due process of law and without payment of compensation and they cannot discriminate by denying the compensation for their land.

13.The petitioner further submits that they have also made further representation to the Chennai Metro Rail Limited dated 11.02.2021, 22.02.2021 and 02.07.2021 by enclosing their Title Documents, Tax Receipts, Thuya Chitta Adangal in respect of their land newly sub divided as New S.Nos.452/12 and 452/13 of Medavakkam Village / Old S.No.262/1part and further requesting the Chennai Metro Rail Limited to furnish them the details of the land to be acquired for formation of Velakkal Station by the Chennai Metro Rail in their land.

14.According to the petitioner, the letter dated 06.07.2021, the Special Tahsildhar, Chennai Metro Rail Limited has sent a letter to the Tahsildar, Tambaram to furnish the Revenue Records in respect of their land.

15.The petitioner submits that vide their letter dated 06.08.2021, they have submitted Adangal Extract for S.No.261/1 of Medavakkam Village for the period from 1980 to 2020 (fasli year 1390 to 1420) reflecting the names of their predecessor in title to the Chennai Metro Rail Ltd.

16.The petitioner further submits that on 01.07.2021, some of the persons claiming under Tamil Nadu Highways Department marked in the middle of their property alleging that part of their property is required to be acquired for widening of Mount-Medavakkam Main road into 4 ways and immediately, they made a representation dated 02.07.2021 to the Highways Department/the third respondent herein that already Chennai Metro Rail is required their land for construction of Velakkal Metro Station in Corridor-5-41 and their land cannot be acquired twice by the different Authority for different purpose and it is also not valid in law and further requested to furnish them the details of their land to be acquired for Widening of Mount - Medavakkam Main road into 4 ways and their land cannot be acquired without following due process of law and without payment of compensation and their possession and enjoyment of their land cannot be



disturbed.

17. According to the petitioner, it is always open to the Government to acquire the lands by paying compensation, if they are needed for any public purpose by enclosing the copy of the order dated 11.10.2018 made in W.P.Nos.26234 & 26237 of 2018 and order dated 25.01.2021 made in W.P.No.4742 of 2013 and they further requested the Highways Department/the third respondent herein that their possession and enjoyment of their land cannot be disturbed further and their land cannot be taken away under any guise of acquisition without following the due process of law.

18. The petitioner submits that Chennai Metro Rail has informed that their lands in Old S.No.262/1 part, newly subdivided as S.Nos.452/12 and 452/13 of Medavakkam Village is required for formation and construction of Velakkal Metro Station in Corridor-5-41 and they are not receipt of any notice for acquisition of their land by Chennai Metro Rail Limited despite their representations.

19. The petitioner further submits that it was alleged by the Chennai Metro Rail Limited that they have made a proposal to the High Power Committee of Government to enter upon their Grama Natham land as if it belongs to Government and Highway Department Officials and contractors were alleging that even without notice of any acquisition Highways Department will take their land which is classified as "Grama Natham" by demolishing their building therein.

20. According to the petitioner, the respondents viz., Chennai Metro Rail Limited or Tamilnadu Highways Department has to acquire their land by following due process of law by paying adequate compensation to the land and building and their possession shall not be disturbed by the respondents until then and he made various representations dated 14.12.2020 etc. to the Chennai Metro Rail Limited and the representations dated 02.07.2021 etc. to the Highways Department/the third respondent herein that their land shall not be taken away without following due process of law.

21. The petitioner has no other alternative remedy except to approach this Court under Article 226 of the Constitution of India. Hence, the writ petition filed.



22. The learned Government Advocate appearing for the respondents 1, 6 and 7 has filed a counter. The relevant paragraphs of the counter is extracted hereunder:

"As such, the said land stand classified as "Gramanatham" in the Land Records. It is pertinent to point out that in an instant case, while the Land Encroachment Act was again invoked for eviction of encroachment on a Gramanatham land, the land owner filed W.P.No.22984 of 2011. The said Writ Petition in W.P.No.22984 of 2011 was allowed by the Division Bench of the Hon'ble High Court on 13.09.2013. But, aggrieved on the said order, the CMRL authorities filed appeal before the Supreme Court of India. The Hon'ble Supreme Court had passed the following order:

"Having heard learned counsel for the parties, we are of the considered opinion that the respondent No.1 should take appropriate civil action or any other action, as is permissible under law, to establish that he is the owner of the land within eight weeks from today. The amount that is lying before the High Court in deposit should be kept in deposit and the same shall be dealt with on the basis of the result of the action taken by the respondent No.1, before the appropriate forum, be it clearly stated that the Civil Court or any other authority while deciding with regard to the nature of the land or right and title of respondent No.1, should not be influenced by any of the observations that have been delineated by the High Court in the impugned order.

Needless to say that as the respondent No.1, was prosecuting the case, the benefit of section 14 of the limitation Act, 1963 shall be extended to him if the Civil Suit or any other action is initiated within a period of eight weeks.

If respondent No.1, does not take any action, the amount shall be refunded to the depositors. In case, it is initiated within the time stipulated hereinabove, the limitation shall be given by the respondent No.1 to the Registry of the High Court and thereafter the said amount shall be kept in a fixed deposit in a nationalized bank.

Moreover, the said W.P.No.4742 of 2013 was disposed on 25.01.2021 with the following order:



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"This Court has repeatedly held that the property classified as Grama Natham does not become the property of Government. When it is admitted before this Court that the property is in enjoyment of the petitioner for his residential purpose, this Court accepts the case of the petitioner that he is entitled to exercise his ownership or right over the property as against the Government or any other agencies of Government. Once the property is recognised as the property of the petitioner, the property cannot be deprived of such land otherwise than by due process of law. Article 300 A of constitution gives protection to every individual to protect his possession and enjoyment. Though the State holding power of eminent domain, can acquire the land belonging to any private individual, if required for any public purpose, the respondents cannot claim any right over the property of the petitioner without initiating any proceedings for acquisition. Having regard to the facts admitted, the respondents cannot presume ownership in favour of Government and contend that the property can be taken even without resorting to any acquisition or other lawful means to get possession. Even an encroacher cannot be dispossessed without following due process. In such circumstances, this Court is unable to appreciate the stand taken by the respondents. The respondents can initiate any proceeding under the appropriate enactment to acquire the land belonging to the petitioner. It is open to them to do so and take possession in the manner prescribed in law after giving just compensation to the petitioner for the acquired land. Without following any procedure, this Court cannot permit the respondents to interfere with the enjoyment of the lands by the petitioner. As a result, the writ petition is allowed. However, it is open to the respondents to initiate any acquisition proceedings. In case, the respondents initiate acquisition proceedings, it can be done only after issuing notice to the petitioner, who is the owner of the property.

23. Heard learned counsel for the petitioners and the learned Government Advocate for the respondents 1, 6 and 7 and the learned counsel for the respondents 4 and 5 and perused the materials available on record.

24. In view of the above facts and circumstances of the case and considering the submission made by either side, this Court is of the view that Grama Natham land only can be used for residential purpose and the said land cannot be used for



commercial purpose. If it is a residential houses in the Grama Natham land, the Authorities shall follow due process of law and by paying adequate compensation or if it is commercial building in the Grama Natham land, the Authorities can proceed further as per the law established thereunder.

25. With the above observations and direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition are is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

skr/pam

To

1. The Secretary,
Government of Tamil Nadu,
Tamil Nadu Highways Department,
St. George Fort,
Chennai.
2. The Divisional Engineer (Highways)
Construction and Maintenance C&M
City Roads Division,
Saidapet,
Chennai - 15.
3. The Assistant Divisional Engineer (Highways)
Construction and Maintenance (Tambaram Division)
Tamil Nadu Highways Department,
Opposite to Velachery Railway Station,
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4. Chennai Metro Rail Limited,
Admin Building,
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Ponnamallee High Road,
Koyambedu,
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5. The Land Acquisition Officer/
District Revenue Officer
Chennai Metro Rail Project,
2nd floor, Admin Building,
CMRL Depot,
Ponnamallee High Road,
Koyambedu,
Chennai - 600 107.

6. The District Collector,
Chengelpet District,
Chengalpet.

7. The Tahsildhar,
Tambaram Taluk,
Chengelpet District.

+lcc to Mr.N.Premkumar, Advocate, S.R.No.51696

W.P.No.17514 of 2021

SRA(CO)
PM/05/01/2022