



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 07.10.2021

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Coram:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.24916 of 2014
and M.P.Nos. 1 & 2 of 2014
and W.M.P.Nos.12393 to 12395 of 2016

Tmt.Kannammal Educational Trust,
Represented by its Managing Director,
Smt.Lalitha Lakshmi,
New No.22, Old No.121,
G.N.Chetty Road,
T.Nagar, Chennai - 600 017.

.... Petitioner

Vs.

1. The Commissioner,
Corporation of Chennai,
Ribbon Buildings,
Chennai - 600 003.
2. The Joint Commissioner (Works),
Corporation of Chennai,
Ribbon Buildings,
Chennai - 600 003.
3. The Zonal Officer,
Zone-VII, Ambattur,
Corporation of Chennai,
Chennai - 600 053.
4. The District Revenue Officer,
Land and Estate,
Corporation of Chennai,
Ribbon Buildings,
Chennai - 600 003.
5. The Collector,
Thiruvallur District,
Thiruvallur.
6. The Secretary to Government,
Municipal Administration and
Water Supply Department,
Fort St. George, Chennai - 600 009.



(R6 impleaded vide order dated 19.03.2021 made in WMP No. 5325 of 2019 in W.P.No.24916 of 2014) Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondents to pay compensation to the petitioner under the New Act namely The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for the petitioner's land measuring 1070 sq.meters (27 cents) in Old S.No.384/1, T.S.No.10G, in Ward-H, Block 75, in No.81, at Church Road, Mogappair Village in Zone-7 of the Corporation of Madras. (Prayer amended vide order dated 12.08.2021 made in WMP No.17799 of 2021 in W.P.No.24916 of 2014)

For Petitioner : Mr.Sathish Parasaran, Senior Counsel
for Mr.K.Sivasubramaniam

For R1 to R4 : Ms. B.Manimegalai,
Standing Counsel for
Chennai Corporation

For R5 & R6 : Mr.M.R.Gokul Krishnan,
Government Advocate

ORDER

This Writ Petition has been filed to issue a writ of mandamus, directing the respondents to pay compensation to the petitioner under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, for the petitioner's land ad-measuring 27 cents in old Survey No.384/1, new Survey No.10G, situated at Ward-H, Block 75, No.81, Church Road, Mogappair Village.

2. The case of the petitioner is that the petitioner has purchased the property including the land, comprised in Survey No.384/1 ad-measuring 27 cents situated at No.81, Church Road, Mogappair Village, Ambattur Taluk, Thiruvallur District, by a registered sale deed dated 27.07.1990 vide document No.3019 of 1990. The petitioner was also issued patta for the subject land in Patta No.120. The revenue records, such as Adangal extract states that the documents stood in the name of the petitioner. On the basis of the FM Sketch prepared by the revenue officials and after surveying the lands and fixing the boundary, the petitioner had put up compound wall in and around the subject property. After putting the compound wall, the petitioner is in possession and enjoyment of the same for the past 24 years. On the Eastern side of the petitioner property, there is a road comprised in Survey No.384/2 and which is used for public.



3. While being so, the petitioner was served with notice dated 06.01.2010 under Section 182 of the Tamil Nadu District Municipality Act, 1920, alleged that the land ad-measuring 4.6 meters East to West on the North and 3.6 meters on the South and also 82 meters on the North to South and 82 meters on the West comprising and including the compound wall is an encroachment on the road, which affects road traffic and therefore, the petitioner is directed to remove the same.

4. The petitioner also sent a detailed representation on 19.01.2010 to the Commissioner, Ambattur Municipality stating that the subject matter of the compound wall in Town Planning Survey No.70-H seems to have been wrongly correlated to the petitioner's land in Survey No.384/1 ad-measuring 27 cents. However, without considering the representation submitted by the petitioner, the respondents removed the compound wall and laid the road in the subject property. Aggrieved by the same, the petitioner approached this Court in W.P.No.30034 of 2010. This Court, by an order dated 18.07.2011, disposed of the writ petition with the following direction :-

"8. A perusal of the impugned show-cause notice dated 06.01.2010 reveals that the same contain certain measurement and in the said notice, the boundaries were not made clear in order to show that the petitioner has put up the construction of compound wall encroaching the land belonging to the municipality and thereby causing disturbance to the transport. Therefore, this Court is of the considered view that in the interest of justice, the first respondent shall fix a date to take measurement on the basis of the municipality records as well as the revenue records in the presence of the petitioner and thereafter, to fix the boundaries with the help of municipal surveyors and in the presence of surveyor of the petitioner. The second respondent shall also depute the revenue officials for the purpose of inspection and marking boundaries on the basis of the municipal and revenue records as well as on the basis of the comparison of the records produced by the petitioner on the date fixed by the first respondent.

9. It is made clear that the said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. Till such time, there shall be an order of status quo as on date. It is further made clear that in the event of any further dispute in respect of the title, the same should be decided by a competent civil court."



5. This Court subsequently directed the first respondent shall fix a date to take measurement on the basis of the municipality records as well as the revenue records in the presence of the petitioner and thereafter, to fix the boundaries with the help of municipal surveyors and in the presence of the surveyor of the petitioner. However, as directed by this Court, the respondents failed to measure the subject property and fix the boundaries.

6. The learned Senior Counsel appearing for the petitioner would submit that the petitioner requested for issuance of patta and the same was considered by the revenue officials and recommended for issuance of patta. Accordingly, the said subject land was stood in the name of the petitioner as per the Ambattur Town Survey Field Register. Therefore, the petitioner sought for compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, for the land, which was taken over and laid the road by the respondents.

7. The learned counsel for the respondent filed counter stating that the petitioner have encroached the portion of the road and constructed the compound wall. Therefore, the petitioner was issued notice, to remove the encroachment, on 06.01.2010. Even then, they failed to remove the compound wall and as such, the Ambattur Municipality had demolished the compound wall constructed by the petitioner, which had created hindrance to the free flow of traffic. Therefore, there is no evidence to show that the direction issued by this Court by an order dated 18.07.2011 complied by the respondents.

8. This Court deems it fit to direct the fifth respondent to depute the authorities concerned to measure the subject property, comprised in Survey No.384/1 ad-measuring 27 cents situated at No.81, Church Road, Mogappair Village, Ambattur Taluk, Thiruvallur District, with the help of the respondents 1 to 3 herein and in the presence of the petitioner, in accordance with the documents produced by the petitioner and fix the boundaries. If the road laid by the respondents falls within the boundaries of the land owned by the petitioner, the respondents are bound to pay the compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, for the land taken by the respondents for laying the road. It is made clear that that fifth respondent is directed to comply the direction within a period of twelve weeks from the date of receipt of a copy of this order.



9. With the above direction, the Writ Petition is disposed of. Consequently, connected Miscellaneous Petitions are closed. No costs.

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Sd/-
Assistant Registrar(CS V)

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Sub Assistant Registrar

Lpp/mn
To

1. The Commissioner,
Corporation of Chennai,
Ribbon Buildings, Chennai - 600 003.
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6. The Secretary to Government,
Municipal Administration and
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Fort St. George, Chennai - 600 009.

+1cc to Ms.B.Manimegalai, Advocate Sr.53444
+1cc to the Government Pleader Sr.53128

W.P.No.24916 of 2014
and M.P.Nos. 1 & 2 of 2014
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srg 17/11/2021