

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.13108 of 2017
and W.M.P.No.14002 of 2017 & W.M.P.No.5497 of 2019

G.K.Balachandran

... Petitioner

-Vs-

The Chairman and Managing Director
M/s. Chennai Metro Rail Limited,
CMRL Depot. Admin Building,
Poonamallee High Road,
Koyambedu,
Chennai - 600 107.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the respondent from disturbing the petitioner's possession in respect of the premises bearing Door No.1034, New No.86, Thiruvottiyur High Road, Kaladipet, Thiruvottiyur, Chennai - 600 019 except due process of law.

For Petitioner : Mr.R.Thirugnanam

For Respondents : Mr.Jayesh B. Dolia
Standing counsel for CMRL

O R D E R

The prayer sought for herein is for a writ of mandamus, forbearing the respondent from disturbing the petitioner's possession in respect of the premises bearing Door No.1034, New No.86, Thiruvottiyur High Road, Kaladipet, Thiruvottiyur, Chennai - 600 019 except due process of law.

2. The case of the petitioner is that the property in Door No.1034, New No.86 Thiruvottiyur High Road, Kaladipet, Thiruvottiyur, Chennai - 19 belongs to the petitioner according to the claim made by the petitioner. The said land has not been acquired in the eye of law. However, for the purpose of Railway Project by the respondent i.e. Chennai Metro Rail Limited, the land was sought to be utilised without even acquiring the land.

3. Therefore, in this regard, though the petitioner has given a representation on 28.04.2017 to the respondent not to disturb the possession of the petitioner in the property concerned without following due process of law by way of land acquisition proceedings, however, the said representation given by the petitioner seems to have not given any desired result, therefore, the petitioner has approached this Court by filing the present writ petition with the aforesaid prayer.

4. Heard Mr.R.Thirugnanam, learned counsel appearing for the petitioner who having reiterated the aforesaid, seeks indulgence of this Court to give a suitable direction to the respondent not to interfere with the possession and enjoyment of the petitioner in the property in question without adopting the due process of law.

5. In this context, Mr.Jayesh B. Dolia, learned Standing Counsel appearing for the respondent, Chennai Metro Rail Limited, has submitted, by relying upon an additional affidavit filed by the respondent that, the land in question is no more required for the respondent for the present project or for future expansion of the Railway Project concerned.

6. In this regard, he relied upon the following averments in the additional affidavit filed by the respondent, which reads thus :

"3. I submit that initially this land was required to be a part of the Thiruvotriyur Metro station and was earmarked for the said purpose. But after thorough investigation by the Engineers and experts, a decision has been arrived at that land is no longer required for the Chennai Metro Rail Project.

4. I submit that the said lands referred to in Block No.8 of Thiruvotiyur village are classified as Government land as per the Revenue Records as a result of which the acquisition proceedings under the Land Acquisition Act was not followed.

5. I submit that the said property involved in this W.P.No.13108 of 2017, lands are not used for the project and is also not required by the respondent even in the future.

For the reasons stated above, it is prayed that this Hon'ble Court may be pleased to dispose of the writ petition

on the basis of above undertaking given on behalf of the respondent and pass such further or other orders in the interests of justice."

7. By relying upon the aforesaid averments, the learned counsel appearing for the respondent would submit that, the said stand taken by the respondent can be recorded by this Court, accordingly suitable orders can be passed in this writ petition.

8. However, Mr.R.Thirugnanam, learned counsel appearing for the petitioner though has accepted the said averments made in the affidavit, has raised an objection with regard to the averment made in paragraph 4 of the affidavit, as referred to above, that the land in question in revenue records stands in the name of the Government.

9. Only to that extent, there has been objection from the petitioner side. However, insofar as the stand now taken by the respondent that, the land in question would not be required for the respondent's use is concerned, the same can be recorded and accordingly, this writ petition can be given a quietus, he contended.

10. I have considered the said submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court, including the additional affidavit filed by the respondent, where, the relevant portion of the undertaking given by the respondents have been taken note of.

11. In view of the said stand taken by the respondent, this Court is inclined to dispose of this writ petition with the following orders.

That the land in question, i.e. Door No.1034, New No.86 Thiruvottiur High Road, Kaladipet, Thiruvottiyur, Chennai - 600 019 is concerned, no disturbance shall be made by the respondent, their men or agent under the respondent, with the peaceful possession and enjoyment of the petitioner and in this regard, if at all the petitioner has got any grievance with regard to the classification of the land in the revenue record as a Government land, it is open to him to make efforts to rectify the same, if he is advised to do so.

12. With these observations and directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

tsvn/sgl

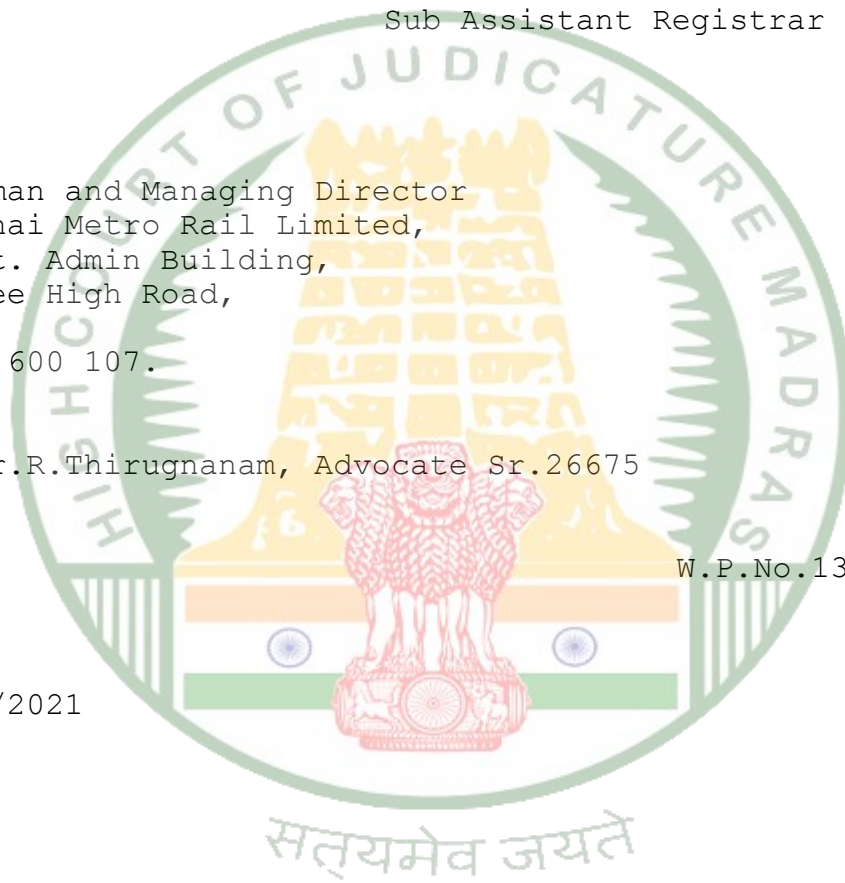
To

The Chairman and Managing Director
M/s. Chennai Metro Rail Limited,
CMRL Depot. Admin Building,
Poonamallee High Road,
Koyambedu,
Chennai - 600 107.

+1cc to Mr.R.Thirugnanam, Advocate Sr.26675

W.P.No.13108 of 2017

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