



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

CORAM

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.32957 OF 2017

AND

WMP.NO.36349 OF 2017

C.G.Seshadrinathan

.... Petitioner

Vs

1. The District Collector,
Kancheepuram District.
2. The Special Tahsildar (LA),
Inner Ring Road Scheme,
HRS Complex, Guindy,
Chennai - 600 025.

.... Respondents

Prayer :-

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus, calling for the records of the second respondent contained in its order dated 08.08.2011 in RC No.61/2003A and quash the same as arbitrary, unjust and illegal and to consequently direct the second respondent to pay to the petitioner the compensation amount in respect of land that was acquired by the second respondent at Plot No.12, admeasuring 1 ground and 1637 sq.f.t situated at Sashi Nagar (West) Layout in Village No.137, Velacheri, Saidapet Taluk, Chengalpet District, by releasing the amounts that are currently kept in Recurring Deposit.

For Petitioner : Mr.Navin Balaji

For Respondents : Mr.RichardsonWilson
Government Advocate

ORDER

This Writ Petition has been filed to issue a writ of Certiorarified Mandamus, calling for the records of the second respondent contained in its order dated 08.08.2011 in RC No.61/2003A and quash the same as arbitrary, unjust and illegal



and to consequently direct the second respondent to pay the compensation to the petitioner in respect of land that was acquired by the second respondent at Plot No.12, ad-measuring 1 ground and 1637 sq.f.t situated at Sashi Nagar (West) Layout in Village No.137, Velacheri, Saidapet Taluk, Chengalpet District, by releasing the amounts that are currently kept in Recurring Deposit.

2. Heard, Mr.Navin Balaji, the learned counsel appearing for the petitioner and Mr.RichardsonWilson, Government Advocate appearing for the respondents.

3. The petitioner entered into an agreement with one M/s.Murugan Syndicate to purchase the house plot No.12 ad-measuring 1 ground and 1637 sq.ft. situated at Sashi Nagar (West) Layout in Village No.137, Velacheri, Saidapet Taluk, Chengalpet District. While pending the agreement for sale, the said M/s.Murugan Syndicate was adjudged as insolvent in I.P.No.76 of 1971. Therefore, all the properties belonged to the said M/s.Murugan Syndicate vested with the Official Assignee. Thereafter, the agreement holders approached this Court and this Court directed the Official Assignee to execute the sale deed. Accordingly, the Official Assignee executed the sale deed in favour of the petitioner in respect of the subject property.

4. A perusal of the approved layout reveals that all the house plots are comprised in Survey No.457 and 458 of Sashi Nagar (West) Layout in Village No.137, Velacherri, Saidapet Taluk, Chengalpet District. While being so, the second respondent acquired the entire subject properties for the purpose of widening the roads under M.M.R.D Scheme.

5. According to the petitioner, he was not served any notice and he was not heard before passing award. However, the petitioner claimed compensation by a representation dated 12.10.1981 from the second respondent herein. Thereafter, the second respondent took a stand that as per the sale deed dated 24.08.1981, the property comprised in SF No.458 (part) alone conveyed in favour of the petitioner. The land comprised in SF No.458 doesn't form part of the acquisition proceedings. Therefore, the petitioner filed a Writ Petition in W.P.No.26789 of 2004 for direction, directing the respondents to pay compensation in respect of the property which was acquired by the second respondent. This Court by an order dated 09.12.2010, directed the first respondent to consider his claim and pass orders on merits and in accordance with law. However, the first respondent did not consider the same as directed by this Court and as such, the petitioner was constrained to file Contempt Petition in Cont.P.No.840 of 2019, in which the acquisition officer filed a counter stating that the petitioner has purchased the house plots only after passing of award



No.17/1974 on 30.11.1974 and process of acquisition completed in 1976 itself and the petitioner had purchased this land only in 1981.

6. According to the sale deed dated 26.08.1981, M/s.Murugan Syndicate is the owner of the land at the time of passing of order on 30.11.1974. The possession of the land was handed over to Highways Department on 07.05.1976. The compensation amount due to M/s.Murugan Syndicate kept in Revenue Deposit as they have not turned up. It further reveals that as directed by this Court, rejected the claim by an order dated 08.08.2011. The said order is under challenge in this writ petition.

7. A perusal of the impugned order states that the land comprised in Survey No.457/1B and 7B among other lands of Velacherry Village ad-measuring 0.14 cents and 0.04 cents were acquired for Velacherry By-Pass Road under M.M.R.D.Scheme. Thereafter, award has been passed by the second respondent in Award No.17/74 dated 30.11.1974. The land was handed over to the Highways Department and the road was also laid. Insofar as the house plot comprised in Survey No.458 is concerned, it was not notified in the Gazette and as such, the petitioner is not entitled for any compensation.

8. A perusal of the layout and the sale deed produced by the petitioner reveals that the petitioner entered into an agreement for sale in the year 1968 with M/s.Murugan Syndicate. Thereafter, he was declared as insolvent in I.P.No.76 of 1971. Therefore, the Official Assignee of this Court, by deed of conveyance dated 24.08.1981, executed in favour of the petitioner. The plot No.12 purchased by the petitioner was situated adjacent to 30 feet existing road. Now, the second respondent acquired the land for expansion of existing 30 feet road.

9. That apart, in Contempt Petition No.842 of 2016, the second respondent filed a counter stating that the subject property was purchased after the award dated 30.11.1974. Therefore, the award amount has been deposited in the Revenue Deposit in the name of M/s.Murugan Syndicate. Therefore, whatever the land owned by M/s.Murugan Syndicate was already acquired by the second respondent and handed over to the Highways Department. Thereafter, the Highways Department laid road and still the petitioner did not receive any compensation. Though, this Court directed the respondents to consider the request of the petitioner for payment of compensation, the second respondent simply rejected the claim for the reason that the property purchased by the petitioner was not under the acquisition proceedings.



10. Whereas, admittedly, the land owned by M/s.Murugan Syndicate was acquired and handed over to the Highways Department and also laid road. Therefore, the petitioner is entitled for compensation for the house plot No.12 ad-measuring 1 acre 1637 sq.ft purchased through the sale deed dated 24.12.1981. Though the Official Assignee executed the sale deed in favour of the petitioner on 24.08.1981 viz., after the award, the petitioner did not have know about the acquisition proceedings. On the strength of the agreement for sale entered with M/s.Murugan Syndicate, the Official Assignee of this Court executed the sale deed. Therefore, the petitioner is entitled for compensation for house plot No.12 ad-measuring 1 acre 1637 sq.ft purchased through the sale deed dated 24.12.1981.

11. In view of the above, the impugned order dated 08.08.2011 passed by the second respondent in RC No.61/2003A is hereby set aside. The second respondent is directed to disburse the compensation as per the award No.17/1974, dated 30.11.1974 for the house plot purchased by the petitioner, forthwith.

12. With the above direction, the Writ Petition stands allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Lpp

To

1. The District Collector,
Kancheepuram District.
2. The Special Tahsildar (LA),
Inner Ring Road Scheme,
HRS Complex, Guindy,
Chennai - 600 025.

+1cc to M/s.S.Victor Prasath, Advocate, S.R.No.42168

+1cc to the Government Pleader, S.R.No.42684

W.P.No.32957 of 2017
and

WMP No.36349 of 2017

CP(CO)
CS/22/09/2021