

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2021

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THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. No. 14858 of 2017
and W.M.P.No. 16101 of 2017

Usman.I

.. Petitioner

Vs

1.The Project Director,
NHAI, PIU, Sri Tower, 3rd Floor,
Behind Olympic Building,
Guindy, Chennai - 600 032.

2.Special District Revenue Officer,
Land Acquisition, NHAI,
Kanchipuram & Tiruvallur District,
Kanchipuram.

3.The District Collector,
Tiruvallur District.
(R3 suo motu impleaded vide order
dated 23.09.2020)

.. Respondents

PRAYER : Writ Petition filed under Article 226 of the
Constitution of India, praying to issue a Writ of Mandamus
forbearing the respondents from evicting the petitioner
illegally from land and house measuring 0.04.5 Ares comprised
in Grama Natham S.No.301/6 situated at No.79, Keelmuthalampedu
Village, Mathura Kavarapettai Village, Gummidipoondi Taluk,
Thiruvallur District.

For Petitioner : Mr. S.Udhayakumar

For Respondents 1 : Ms. S.R.Sumathi
2 & 3: Mr. M.Elumalai, AGP

O R D E R

This Writ Petition has been filed for the issuance of
Writ of Mandamus forbearing the respondents from evicting the
petitioner illegally from the land and house measuring an
extent of 0.04.5 Ares comprised in Survey No.301/6 situated at
No.79, Keelmuthalampedu Village, Mathura Kavarapettai Village,
Gummidipoondi Taluk, Thiruvallur District.

2. The case of the petitioner is that an extent of
0.04.5 Ares comprised in Survey No.301/6 is classified as

grama natham and in the enjoyment and possession of petitioner's mother by name Jamala Bi for several decades and that his mother executed a settlement deed in favour of the petitioner on 06.02.2004. It is the further case of the petitioner that a portion of property abutting the main road was acquired for widening of National Highways and that a sum of Rs.2,24,409/- was paid as compensation. It is the contention of the petitioner that the petitioner is threatened to vacate the property by the respondents without any notice for acquisition. It is also stated that the petitioner is doing business in the ground floor and residing in the first floor. The respondents 1 and 2 filed counter affidavit disputing the contention that the property in Survey No.301/6 is classified as Grama Natham. It is stated that the total extent of land in Survey No.301/5 was originally classified as Mandaveli Poramboke before UDR and that thereafter a small portion in Survey No.301/6 measuring an extent of 0.04.0 Hectare was classified as Grama Natham. Though it is stated that the a small extent in Survey No.301/6 was reclassified as Grama Natham, based on the original records the classification was brought back as Mandaveli Poramboke. It is further stated that the patta issued in favour of petitioner's predecessors interest was also cancelled by proceedings dated 04.03.2020. However, the validity of such order is not gone into. Learned counsel for the petitioner relied upon the counter affidavit filed by the District Collector wherein it is stated that the small extent of property for which the petitioner claimed titled in Survey No.301/6 is classified as a Natham Poramboke. It is contented by the respondents that the property in Survey No.301/6 along with entire stretch of land was originally classified as Mandaveli Poramboke and a small extent of land measuring about 4.5 ares in Survey No.301/6 was wrongly classified as Grama Natham. It is also the specific case of the respondent that the wrong classification was made right subsequently by proceedings and that the patta was also cancelled in respect of land in Survey No.301/6. It is to be noted that the petitioner is in possession of the property and he is not evicted by due process of law. Hence, he is entitled to get compensation for the superstructures and land as occupier.

3. Having regard to the nature of dispute revealed from the pleadings this Court is unable to resolve the issue whether the petitioner is entitled to claim exclusive right as owner of the property which was originally classified as Mandaveli Poramboke. The petitioner admits that the land has been acquired by the respondents. If the petitioner is aggrieved by the acquisition proceedings for want of notice to the petitioner, it is open to the petitioner to challenge the very acquisition proceedings. If the petitioner's grievance is to get adequate compensation, it is also open to the petitioner to claim compensation before the competent authority. If the amount determined by the competent authority under the National Highways Act is not acceptable by the

petitioner, it is open to the petitioner to seek reference so that the Arbitrator namely the District Collector can determine the quantum of compensation to which the petitioner is entitled as real owner in terms of Section 3G (5) of the National Highways Act. Similarly, if the petitioner is unable to get adequate compensation for the lands as owner for want of title as per the decision of the Land Acquisition Officer, it is also open to the petitioner to seek reference before the Civil Court in terms of Section 3H (4) of the National Highways Act. Since the petitioner is claiming title, it is the duty of the respondents 1 and 2 to refer the dispute to the Civil Court in terms of Section 3H (4) of the National Highways Act. This Court cannot decide the disputed questions of fact and decide whether the petitioner is the absolute owner of the property. It is admitted that the petitioner is living in a building. The second respondent admitted that compensation for the building is awarded to the petitioner. That shall be disbursed to the petitioner.

4. Having regard to the facts narrated before this Court and the statutory protection available to the petitioner, this Court is inclined to direct the respondents 1,2 and 3 to refer the dispute to the Civil Court. Accordingly, the second respondent is directed to refer the dispute to the Civil Court in terms of Section 3H (4) of the National Highways Act. If the petitioner seeks enhancement of compensation, it is open to the petitioner to seek reference to arbitrator and upon such representation being made for reference the third respondent shall determine the just compensation as contemplated under Section 3G (5) of the National Highways Act. Though it is stated that patta in favour of petitioner is cancelled, it is not known whether it was cancelled after issuing notice to petitioner. Anyway Civil Court is competent to decide the question of title uninfluenced by the order cancelling patta.

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

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Special District Revenue Officer,
Land Acquisition, NHAI,
Kanchipuram & Tiruvallur District,
Kanchipuram.

2.The District Collector,
Tiruvallur District.

+1cc to the Government Pleader SR.1108

W.P. No. 14858 of 2017

JP II(CO)
CB(09/03/2021)



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