



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.08.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.(MD) No.1231 of 2019

and

W.M.P.(MD) No.1047 of 2019

WEB COPY

Rukumani

.. Petitioner

Vs

1.The Additional Chief Secretary to Government,
Highways and Minor Ports Department,
Fort St. George,
Chennai - 9.

2.The District Collector,
Trichy,
Trichy District.

3.The Revenue Divisional Officer,
Musiry,
Trichy District.

4.The Divisional Engineer (Highways),
Trichy Division,
TNRSP-II, Door No.14,
Abdul Salam Street,
Kaja Nagar, Trichy - 620 020.

5.The Assistant Divisional Engineer (Highways),
Thuraiyur Sub-Division (Construction and Maintenance)
Travellers Bungalow,
Near by Taluk Office,
Thuraiyur, Trichy District - 621 010.

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari, calling for the records relating to impugned order issued by the fifth respondent vide his proceedings in கு.எண்.9/2018/அ2, dated 02.01.2019 and quash the same as illegal.

For Petitioner : Mr.S.Muthalraj

For Respondents : Mr.B.Saravanan

Government Advocate



ORDER

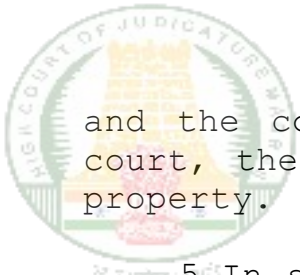
[Order of the Court was made by M.DURAI SWAMY]

The petitioner has filed the above Writ Petition to issue a Writ of Certiorari, to call for the records relating to the impugned order, dated 02.01.2019 passed by the fifth respondent and to quash the same.

2.Mr.B.Saravanan, learned Government Advocate takes notice for the respondents.

3.It is the case of the petitioner that she is residing in the property in question since 1969. Further, she has stated that her husband had purchased some vacant land which is situated in Venkatesapuram Village in Survey Nos.205/2A, 3A measuring an extent of 1200 square feet and that he executed a sale deed in favour of the petitioner and her sons in respect of the said vacant land on 17.10.1985. According to the petitioner, since then she is in continuous possession and enjoyment of the same. On 06.10.2006, the Tamil Nadu State Highways Department issued a notification for establishing a new bypass road at Thuraiyur and for the said purpose, the land belonging to the petitioner was sought to be acquired. The petitioner has also received a notice dated 19.12.2008 under Section 3(2) of the Tamil Nadu Highways Act, 1997. The petitioner was called for an enquiry on 16.03.2009 and she has also filed her objections before the third respondent. Subsequently, the land belonging to the petitioner was acquired by the Highways Department and the bypass road was established and was opened for the public usage. The respondents / Highways Department had also deposited the compensation amount before the civil court. Since the petitioner continued to remain in possession of the land in Survey No.205/2B1A, the fifth respondent issued the impugned order dated 02.01.2019 calling upon the petitioner to vacate and hand over possession of the said land measuring an extent of 110 square meters. Challenging this notice, the petitioner has filed the above Writ Petition.

4.On a perusal of the materials available on record, it is clear that the respondents have initiated the acquisition proceedings as per the provisions of the Tamil Nadu Highways Act and had also deposited the compensation amount after conducting an enquiry as contemplated under the Act. In spite of the proceedings initiated by the Highways Department, the petitioner continued to remain in possession of the land. In view of the fact that the petitioner is holding over the possession of the land, she was construed as an encroacher and the impugned order dated 02.01.2019 was issued by the fifth respondent for evicting her from the said land. When the land in question was acquired by the authorities



and the compensation amount was also deposited before the civil court, the petitioner has no right to remain in possession of the property.

5. In such view of the matter, we are not inclined to interfere with the order passed by the fifth respondent. W.P(MD)No.1231 of 2019 is devoid of merits and the same is dismissed. There will be no order as to costs. W.M.P(MD)No.1047 of 2019 is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ps/pm

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

ps/pm

To:

- 1.The Additional Chief Secretary to Government,
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+1 CC to M/s.SPL GP (SR-27043[F] dated 24/08/2021)

+1 CC to M/s.NA.PALANIYANDI, Advocate (SR-27125[F] dated
24/08/2021)

W.P. (MD) No.1231 of 2019
23.08.2021

PS (CO)
SB(01.09.2021) 4P 8C