

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 02.02.2022

PRONOUNCED ON : 08.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

A.S.NO.231 OF 2010

1.Duraisamy
2.Natarajan

... Appellants/
Claimants 2 & 3

Vs

1. The Special Tahsildhar,
Land Acquisition
Thermal Power Project
Mettur

... 1st Respondent/Respondent

2. Thilagavathi

...2nd Respondent/
1st Claimant

Prayer:-

This Appeal Suit has been filed, under Section 96 CPC, as against the judgment and decree dated 24.11.2008 made in L.A.O.P No.10 of 2003 on the file of the Sub Court, Mettur.

For Appellant : Mr. A.Sundaravadhanan
For Respondents : Mr.B.Tamil Nidhi
Additional Government Pleader for R1
Mr.P.Valliappan for R2

JUDGMENT

This appeal has been filed challenging the judgment and decree dated 24.11.2008 made in L.A.O.P No.10 of 2003, by the

Subordinate Judge, Mettur.

2. A reference has been filed by the respondent/Special Tahsildar (L.A), Thermal Power Project, Mettur under Section 31(2) of the Land Acquisition Act in LAOP No.10 of 2003, to decide the apportionment of compensation amount with regard to the land acquired for the extension of Mettur Thermal Power scheme in Award No.1 of 2002-2003 dated 05.11.2002. The appellants are the claimants 2 and 3 and the 2nd respondent is the 1st claimant in the said LAOP.

3. After perusing the oral and documentary evidence, the learned Sub Judge, Mettur held that only the 2nd respondent/1st claimant is entitled to receive the compensation amount as per the norms passed by the Referring Officer in Award No.1/2002-2003, dated 05.11.2002 and the other claimants are not entitled to receive any compensation amount. Challenging the above judgement and decree, the present appeal has been filed by the appellants / claimants 2 and 3.

4. The case of the 1st claimant is that she is the absolute owner of the petition mentioned properties viz., S.No.496/11 measuring to an extent of 0.0424.00 in P.N.Patty Village and she is in possession and enjoyment of the same. Patta was also issued in her name. It is a vacant land which contains only a shed and it has no door. The entire acquisition proceedings were conducted for the properties only in her name. Except this claimant, nobody has got any right, title or possession over the acquired land. One Duraisamy and Natarajan, sons of Nallappa Reddy had made a false claim in the acquired lands and filed a suit in O.S.No.203 of 2003 against this claimant seeking to declare the patta issued to this claimant as null and void and also prayed for an injunction not to give the compensation amount and the job opportunity to this claimant. Later, the said Duraisamy and Natarajan have filed an application before the District Munsif Court, Mettur in O.S.No.202 of 2003 for appointment of a commissioner to show their possession over the suit properties. Even prior to that, the entire land acquisition proceedings were over and the lands were acquired by the Government. The said application was allowed by the District Munsif, Mettur and against the said order, this claimant had preferred a revision before the High Court of Judicature, Madras in CRP No.1846 of 2003. In that CRP, the Hon'ble High Court has accepted the contention of this claimant have withdrawn the suit in O.S No.203 of 2003 and dismissed it on 5.12.2003 itself. This itself would prove the sanctity of the claim made by those persons. The revenue records such as chitta, adangal, patta and other documents would prove this claimant's right over the acquired properties. If those persons are having any right in the acquired property,

they would have taken legal steps to implead them as parties in the acquisition proceedings. But, only at the final stage of the land acquisition proceedings, they have created a scene as if they are having right over the acquired property only with a malafide intention of dragging and delaying the disbursement of award amount to this claimant for which they are not legally entitled.

5. The case of the appellants/claimants 2 and 3 is that the claimants 2 and 3 are brothers. They are the absolute owners of the acquired land. The 2nd claimant occupied the western portion of the property measuring to an extent of 2240 sq.ft. and the 3rd claimant occupied the eastern portion of the property measuring an extent of 2240 sq.ft. before 15 years and they have built a house in their respective portions. The 1st claimant, Thilagavathy had fraudulently obtained patta to the properties of the claimants 2 and 3 in S.No.496/11 in her name by using her political influence. The 1st claimant is not the resident of Sa.Pudureddiyur, P.N.Patty Village, but she is the resident of Elathur in Omalur Taluk. The 1st claimant was never in possession and enjoyment of the properties at S.No.496/11. Knowing the false patta obtained in the name of the 1st claimant, the claimants 2 and 3 have raised objection to the Revenue Divisional Office through the Sa.Pudureddiyur people Welfare Association in the year 1998 and on 30.07.1999.

5.01. In such circumstances, the respondent had acquired the property for extension of Mettur Thermal Power Station of Tamil Nadu Electricity Board. There was a tripartite agreement between the Tamil Nadu Electricity Board, the State of Tamil Nadu and the Sa.Pudureddiyur People Welfare Association to get compensation and job opportunity to the acquired properties. Therefore, on 19.08.2002, the claimants 2 and 3 have sent letters to the District Collector, Salem, explaining the entire facts and demanding him to cancel the patta in the name of the 1st claimant and to include the name of the claimants 2 and 3 to get the compensation amount and job opportunity. Thereafter, on 04.09.2002, the respondent sent a note order in his Na.Ka.No.157/1999 (A) asking the claimants 2 and 3 to produce the relevant documents to prove the possession of the acquired property on 20.09.2002. On that day, the claimants 2 and 3 met the respondent and produced all the records to prove their possession and enjoyment. The 1st claimant is also trying to get the compensation amount and the job opportunity on the basis of fraudulent patta, in Patta No.1535. The said patta is not the document of title. But, without considering the real facts, the respondent had deposited the compensation amount of Rs.62,505/- before this Court to derive the ownership of the property in S.No.496/11 of P.N.Patty village. The respondent had passed an award in Award No.1/2002-2003 dated 05.11.2002.

Challenging the said award, the claimants 2 and 3 are before this Court.

6. Heard the submissions made on either side and also perused the entire materials on record.

7. The learned counsel for the appellants would submit that the 2nd respondent is not a resident of P.N Patty Village. The patta stands in the name of the 2nd respondent, is a fabricated document. Moreover, patta is not the title document. The appellants have proved their case before the trial Court, but the learned trial Judge, without appreciating the evidence of the appellants, came to a wrong conclusion that the 1st claimant is only entitled for the compensation of award amount. Hence, he prays to allow this appeal.

8. The learned counsel for the 2nd respondent/1st claimant would submit that the 2nd respondent/1st claimant is the absolute owner of the acquired land and she is in possession and enjoyment of the same till the date of acquisition under patta. The said property is a vacant land and when the government initiated the land acquisition proceedings, the 2nd respondent/1st claimant has not made any construction. During the trial, the 1st claimant has produced the documents to prove her possession and enjoyment over the acquired land. But, on the side of the claimants 2 and 3, no documents such as ration card or house tax receipts have been produced to prove that they are in possession and enjoyment of the acquired land. Further, they have not taken any steps to cancel the patta which stands in the name of the 2nd respondent/1st claimant. Therefore, the 2nd respondent / 1st claimant is only entitled for the compensation of award amount. He would rely on the decision reported in 1996 AIR (Supreme Court) 237 [G.H. Grant, Dr. v. State of Bihar]. Hence, the judgment and decree passed by the trial Judge is in accordance with law and hence, he prays for dismissal of this appeal.

9. In this case, the 1st claimant / CW1 had deposed that she is the owner of the property in Survey No.496/11 and obtained patta in her name. On perusal of documents, Ex.C5-Chitta, Ex.C6-Adangal, X-1-Patta, the name of the 1st claimant found place in the said documents. Further, Ex.X-2 is the Notification dated 26.08.2002 sent to the 1st claimant under Section 9 and 10 of the Land Acquisition Act. Ex.X-3 dated 13.12.2000 is the gazette notification issued by the Thermal Power Department, mentioning the schedule of lands owned by the land owners for the land acquisition, in which the 1st claimant's name was mentioned. From the above records, it is made clear that the 1st claimant has established her possession and enjoyment over the acquired land.

10. The 3rd claimant/C.W3 during his examination deposed that the 1st claimant Thilagavathy had obtained the patta illegally by using her political influence. The claimants 2 and 3 have filed Ex.C8 & C9- Voter's list, Ex.C10- Ration Card, Ex.C11 and Ex.C12, the Penal Interest Exemption notices sent by the Mettur Cooperative Housing Board Society and Ex.C14 and C15- Certificates issued by the Village Administrative Officer of P.N Patty. But the aforesaid documents are not the title documents to prove their claim. Further, the claimants 2 and 3 have failed to prove that the patta stands in the name of the 1st claimant is a forged document and also they did not take any steps to cancel the patta standing in the name of the 1st claimant. It is true that the patta is not the document to prove the title over the property. But, as comparing with the claimants 2 and 3, the 1st claimant is in better position. As per Section 30 of the Land Acquisition Act, the 1st claimant as the owner of the acquired land is only entitled for the compensation of award amount. Thus, the trial Court, after considering all these aspects came to a proper conclusion that the 1st claimant is entitled for the compensation of award amount. Therefore, the judgment and decree passed by the trial Court does not warrant any interference by this Court and the appeal is liable to be dismissed.

11. In fine, this Appeal Suit stands dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Subordinate Judge, Mettur.

+1cc to Mr.P.Valliappan, Advocate, S.R.No.32905

A.S.No.231 of 2010

PMK(CO)
PM/29/07/2022