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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2022

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.2364 of 2021
and W.M.P.No.2668 of 2021

D.Murali

... Petitioner

-Vs-

1. The Tahsildar,
Egmore Nungambakkam Taluk,
Mayor Ramanathan Road, Chetpet,
Egmore, Chennai.
2. The Tahsildar,
Mambalam Guindy Taluk,
Near RTO Office, Ashok Nagar, Chennai.
3. The Area Engineer/Project Officer,
CMRL Administration Office,
CMRL Depot, Koyambedu, Chennai. 107.
4. The Assistant Engineer, Zone X,
Chennai Corporation Zonal Office,
Power House, Kodambakkam,
Chennai 24.
5. The Land Acquisition Officer &
Revenue Divisional Officer,
Central Chennai Revenue Division,
Anna Nagar West(Extn), Chennai-600101.
6. The District Collector,
Chennai District,
Singaravelar Maaligai, Chennai.
7. The Government of Tamil Nadu,
Rep by Secretary, Acquisition of Land,
For Industrial Purposes, Fort.St.George,
Chennai.

8. Ananthalingam

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 1 to 7 to issue notice to



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the petitioner under Section 3 of the Tamil Nadu Acquisition of Land for Industrial Purposes Act 1997 and to pay the amount for such acquisition to the petitioner and if there is any rival claim to deposit the amount in Court as provided under Sections 9 and 10 of the Act in respect of property bearing New Door No.180, 181, Old Door No.99,100 and 101, Arcot Road, Vadapalani, Chennai.26 as sought vide representation dated 11.01.2021.

For Petitioner : Mr.N.A.Nissar Ahmed
For R1, R2,
R5 to R7 : Mr.M.Muthusamy
Government Advocate
For R3 : Mr.Jayesh B.Dolia

ORDER

This Writ Petition has been filed for the issuance of Writ of Mandamus, directing the respondents 1 to 7 to issue notice to the petitioner under Section 3 of the Tamil Nadu Acquisition of Land for Industrial Purposes Act 1997 and to pay the amount for such acquisition to the petitioner and if there is any rival claim to deposit the amount in Court as provided under Sections 9 and 10 of the Act in respect of property bearing New Door No.180, 181, Old Door No.99,100 and 101, Arcot Road, Vadapalani, Chennai.26 as sought vide representation dated 11.01.2021.

2. Heard Mr.N.A.Nissar Ahmed, learned counsel appearing for the petitioner, Mr.M.Muthusamy, learned Government Advocate, appearing for the respondents 1, 2, 5 to 7 and Mr.Jayesh B.Dolia, learned counsel appearing for the third respondent.

3. The case of the petitioner is that the petitioner and his mother owned property bearing New Door No.180, 181, Old Door No.99, 100 and 101, Arcot Road, Vadapalani, Chennai.26. They had mortgaged the said property with Madras Purasawalkam Hindu Janopakara Sawatha Nidhi Ltd.,. Since, the petitioner and his mother defaulted in payment of loan availed through the mortgage, the mortgager had auctioned the property and one T.G.Sukumaran and Lalitha Sukumaran had purchased the subject property in an auction by the sale deed, dated 12.06.2006. The petitioner and his mother had filed a suit in C.S.No.769 of 2007 on the file of this Court for declaration, declaring that the sale deed, dated 12.06.2006 is null and void. The said suit was subsequently transferred to the file of the VII Additional Judge City Civil Court, Chennai and renumbered as O.S.No.6527 of 2019 and it is pending.

4. While being so, the 8th respondent had purchased the subject property from the said T.G.Sukumaran and Lalitha



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Sukumaran. Thereafter, a portion of the subject property was acquired for the public purpose by the third respondent by issuance of show cause notice under Section 3(2) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997. However, they were not served any notices.

5. The learned counsel for the petitioner would submit that the petitioner and his mother are the rival claim over the subject property and the suit in O.S.No.6527 of 2019 is pending on the file of the VII Additional Judge City Civil Court, Chennai. Therefore, they are the interested persons of the subject property and the compensation amount determined for the subject property may be referred to the Court for decision as per Sections 9 and 10 of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997. Therefore, the petitioner made a representation to the respondents for issuance of notice under Section 3 of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 to pay the compensation amount to the petitioner.

6. A perusal of the counter filed by the third respondent revealed that the 8th respondent had purchased the subject property and all the revenue records were mutated in the name of the 8th respondent. A portion of the subject property is proposed for acquisition. In pursuance of the delegation of powers under Section 2(a) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997, in favour of the District Revenue Officer, (Land Acquisition), Chennai Metro Rail Limited to perform the functions under Section 3(2) of the land acquisition proceedings initiated for Chennai Metro Rail Projects and show cause notice was issued in the name of the 8th respondent as contemplated under Section 3(2) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 on 27.01.2020.

7. Aggrieved by the said show cause notice, the counsel for the petitioner had issued notice, dated 10.02.2020 to call upon the authorities concerned to put their clients on notice with regard to any acquisition proceedings and to disburse the compensation amount in respect of the subject property only to the petitioners. Admittedly, the subject property was mortgaged in favour of one Madras Purasawalkam Hindu Janopakara Sawatha Nidhi Ltd., due to non repayment of the loan amount, the subject property was brought for auction. In auction, one T.G.Sukumaran and his wife Lalitha Sukumaran had purchased the subject property by the registered sale deed, dated 12.06.2006. Though, the said sale deed is under challenge in O.S.No.6527 of 2019, the question of auction sale purchaser i.e. T.G.Sukumaran and Lalitha Sukumaran are bonafied purchasers.



8. Subsequently, the subject property was purchased by the 8th respondent herein and all the revenue records were mutated in the name of the 8th respondent herein. Therefore, the authority concerned, the 5th respondent rightly issued notice to the 8th respondent as contemplated under Section 3(2) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 on 27.01.2020. Therefore, the petitioner is not entitled for the notice under Section 3 of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997. Further, Section 9(2) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 says that, when the amount has been determined under Section 7, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute for the decision of the Court.

9. Therefore, if the petitioner succeeds in the said suit in O.S.No.6527 of 2019 on the file of VII Additional Judge, City Civil Court, Chennai, he can claim the compensation as against the 8th respondent herein, if the entire compensation is received by the 8th respondent.

10. In view of the above observations, this writ petition is disposed of. Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Tahsildar,
Egmore Nungambakkam Taluk,
Mayor Ramanathan Road, Chetpet,
Egmore, Chennai.
2. The Tahsildar,
Mambalam Guindy Taluk,
Near RTO Office, Ashok Nagar, Chennai.
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CMRL Administration Office,
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6. The District Collector,
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Singaravelar Maaligai, Chennai.
7. The Secretary, Acquisition of Land,
For Industrial Purposes,
The Government of Tamil Nadu,
Fort.St.George,
Chennai.

+1cc to Mr.N.A.Nissar Ahmed, Advocate, S.R.No.7456
+1cc to Mr.Karthikaa, Advocate, S.R.No.7810
+1cc to the Government Pleader, S.R.No.8068

W.P.No.2364 of 2021
and W.M.P.No.2668 of 2021

BR(CO)
CT 28/02/2021