

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2022

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.17993 of 2016
and
WMP.No.15742 of 2016

Thangammal

.. Petitioner

Versus

1. The Secretary to Government,
Municipal Administration & Water Supply,
Secretariat, Chennai-9.
2. The District Collector,
Chennai District, Chennai.
3. The Tahsildar,
Land Acquisition,
Fort Tondiarpet Taluk,
Chennai-3.
4. The Commissioner,
Corporation of Chennai,
Rippon Building, Park Town, Chennai-3.

.. Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing the respondents herein to pay up Rs.15,00,000/- to the petitioner as and towards damages for their highhanded and un-authorized act of encroaching/trespassing upon the property bearing No.70, Old No.18, comprised in R.S.No.1853/2 and 1854/5 measuring 3959-524=3454 sq.ft. Of Kathivakkam High Road, Korukkupet, Tondiatpet, Chennai-21 and demolish the building on 17.01.2016.

For Petitioner : Mr.B.Harikrishnan
For Respondents: Mr.Yogesh Kannadasan, SGP

O R D E R

The petitioner has filed this writ petition seeking a direction to the respondents herein to pay upto Rs.15,00,000/-

to the petitioner as and towards damages for their highhanded and un-authorized act of encroaching/trespassing upon the property bearing No.70, Old No.18, comprised in R.S.No.1853/2 and 1854/5 measuring 3959-524=3454 sq.ft. Of Kathivakkam High Road, Korukkupet, Tondiatpet, chennai-21 and demolish the building on 17.01.2016.

2. The facts of the case are as follows:

The petitioner is the owner of the property in R.S.No.1853/2 and 1854/5 measuring to an extent of 3959 sq. ft. of Kathivakkam High Road, Korukkupet, Tondiarpet Village, Chennai. During the year 2008-2009, the respondents were acquired the land in the said locality for formation of over bridge, for which, the respondents were acquired a portion of the petitioners land measuring to an extent of 527 sq. ft. But the respondents have trespassed and encroached into another portion of the petitioner's land and laid the over bridge. Therefore, the petitioner had made a representation to the respondents to pay the adequate compensation for damages and alienation. Till date, the same was not considered by the respondents and hence, the present writ petition has been filed with the afore said prayer.

3. The learned counsel for the petitioner submitted that already, a small portion of the land was acquired by the respondents and a small portion of the land was trespassed by them and laid road. In view of the same, this Court may direct the respondents to pay the compensation to the petitioner within the reasonable time as fixed by this Court.

4. The learned Special Government Pleader submitted that admittedly, the petitioner's land was acquired and compensation was also paid and the project was implemented. If the respondents encroached the petitioner's land, he has to approach the competent civil Court. Based on the assumption, the petitioner has filed the present petition, which cannot be entertained. Hence, the learned counsel seeks to dismiss the same.

5. Heard the learned counsel for the petitioner, the learned Special Government Pleader appearing on behalf of the Government and perused the materials available on record.

6. The facts of the case are not in dispute. Admittedly, the petitioner's land was acquired by the respondents. After acquisition proceedings, the over bridge was laid. The grievance of the petitioner is that a small portion of the land was encroached by the respondents. If the petitioner have any proof to show that the respondents have encroached the petitioners property, he can approach the competent civil Court for getting appropriate remedy. Instead of doing that, the petitioner filed

the writ petition before this Court for compensation, which cannot be decided by this Court.

7. Considering the facts and circumstances of the case, this Court, without going into the merits of the case, permits the petitioner to file appropriate petition/application before the competent civil Court and canvas all the points before the said court for getting appropriate compensation for alleged encroachment and damages.

8. With the above directions, this Writ Petition is disposed of. No costs. However, liberty is granted to the petitioner to work out his remedy in the manner known to law. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
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Land Acquisition,
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Rippon Building, Park Town, Chennai-3.

+1cc to Mr.B.Harikrishnan, Advocate, S.R.No.38649

+1cc to the Government Pleader, S.R.No.39350

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NSK/20/07/2022