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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.8108 of 2011
and M.P.No.1 of 2011

St.Alfred Educational Trust,
rep.by its Chairman,
John Alfred
No.22, Casa Major Road
Egmore, Chennai - 600 008.

... Petitioner

Vs.

1.State of Tamil Nadu
rep.by its Secretary,
Housing and Urban Development Department,
Fort St.George, Chennai 9.

2.Chennai Metro Rail Ltd.,
rep.by its Managing Director,
11/ , Seethammal Colony,
Alwarpet, Chennai 600018.

3.Chennai Metropolitan Development Authority,
rep.by its Member Secretary,
Chennai 600 008.

... Respondents

PRAYER: The Writ Petition filed under Section 226 of Constitution of India, pleased to issue a Writ of Certiorari Calling for the records relating to the proceedings of the first respondent in Lr.No. 18420/UD3 (2)/07-18 Dated 22.02.2011, quash the same.

For Petitioner : Mr.M.Muthappan

For RR1 : Mr.P.Sathish
Additional Government Pleader

For RR2 : Mr.Jayesh B.Dola

O R D E R

The petitioner has filed this petition for issuance of Writ of Certiorari to call for the records relating to the proceedings of the first respondent in Lr.No. 18420/UD3 (2)/07-18 Dated 22.02.2011, quash the same.



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2. The case of the petitioner is that the petitioner Trust, it is running a School and College in Koyambedu and the School was started in the year 1980 and the College of Engineering was started in the year 1997 after getting necessary approval from AICTE. It is further stated by the petitioner that the petitioner Trust owns properties in S.No.159/1 to 6, 160/1, 160/2, 160/3, 160/4, 163/1, 163/2, 164/2, 183/4 and 183/5, 186/1, 186/1, 186/2, 188 and 57, the total of which comes to 14.25 acres in Koyambedu Village, Saidapet Taluk. AICTE was periodically inspecting the College of Engineering for continuing its approval and at their instance, the petitioner erected compound walls encircling the properties owned by it. The Corporation of Chennai has also directed the Trust to put up compound walls enclosing the properties owned by it.

3. It is further stated by the petitioner Trust that when it was constructing the compound wall, the respondent, namely, CMDA has raised objection stating that some of the properties are acquired by the Government. The acquisition was challenged by the owners of the land in W.P.No.7789 of 2000 and it was quashed by this Court vide order dated 10.4.2003.

4. The further Notifications dated 25.9.2001 and 20.9.2002 for acquiring the land in S.No.159/6 and 163/2 have been stayed by this Court vide order dated 5.11.2004 made in WPMP No.39051 of 2004 in W.P.No.32252 of 2004.

5. It is also stated by the petitioner that when attempts were made to prevent the petitioner from erecting the compound wall around the property, it filed a suit in O.S.No.2146 of 2004 on the file of City Civil Court, Madras praying for permanent injunction restraining the respondents, i.e, K.V.Lakshmipathy and CMDA or their men, agents from interfering with peaceful possession and enjoyment of the properties either by preventing the plaintiff/writ petitioner from putting up the compound wall within the property in their possession or otherwise except under due process of law. Initially an order of ad interim injunction was granted. Subsequently the Suit after contest was decreed on 2.11.2010. Therefore, according to the petitioner, since they are in peaceful possession and enjoyment of the property, decree for permanent injunction came to be passed in favour of the petitioner. The Revenue records clearly establish the fact that there are several building in the other Survey Numbers in question. It is also the case of the petitioner that the jurisdictional Tahsildar as well as the Village Administrative Officer had also given certificates to that effect with regard to peaceful possession and enjoyment of the property from 1977 onwards.



6. However, the Chennai Metropolitan Development Authority once again issued Notice dated 30.11.2004 stating that the construction of compound wall in the above Survey Numbers was an unauthorised one and therefore, called upon the petitioner to demolish the same within 30 days from the date of receipt of the notice. Aggrieved by the Notice, the petitioner filed W.P.No.38925 of 2004, wherein this Court directed the 1st respondent herein to consider the claim of the petitioner for release / assignment of balance extent of lands and in compliance of the order of this Court, the 1st respondent has passed the present impugned order dated 22.02.2011, which is the subject matter of challenge in this Writ Petition.

7. This Court has perused the impugned order and the same reveals that S.F.Nos.159/1, 159/2, 159/3, 159/4, 159/5, 159/6, 160/2, 160/3, 160/4, 163/1, 163/2 and 188 in Koyambedu Village, is belonging to the Government and the said land is acquired for the construction of Chennai Metro Station and the land acquisition proceedings have already ended against the vendor and further in the impugned order it has been categorically held that the said lands are technically essential and of top most priority for setting the Metro Station and enforcement action has been initiated by CMDA and accordingly rejected the petitioner's request.

8. Considering the above facts and circumstances, though initially the said lands were owned by the petitioner, Vendor subsequently, the lands have been acquired for the public purpose and once it is acquired for the public purpose, the petitioner has no right to claim right over the property and therefore, the impugned order does not warrants interference of this Court and thereby, the writ petition is liable to be dismissed.

9. In view of the above, this Writ Petition is dismissed. 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 Secretary,
Housing and Urban Development Department,
Fort St.George, Chennai 9.

2.The Managing Director,
Chennai Metro Rail Ltd.,
11/ , Seethammal Colony,
Alwarpet, Chennai 600018.

3.The Member Secretary,
Chennai Metropolitan Development Authority,
Chennai 600 008.

+1cc to Mr.Jayesh B.Dola, Advocate SR.No.22177

+1cc to Mr.M.Muthappan, Advocate SR.No.21944

+1cc to Government Pleader SR.No.22226

W.P.No.8108 of 2011

AK(CO)
GMY(26/04/2022)