



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :30.03.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.7444 of 2022
and W.M.P.No.7444 and 7446 of 2022

A.Maharani

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep.by its Secretary to Government,
Highways and Minor Ports Department,
Secretariat, Fort St.George,
Chennai 600 009.
- 2.The Commissioner of Land Acquisition,
Chepauk,
Chennai-600 005.
- 3.The Special District Revenue Officer,
(Land Acquisition Officer),
Chennai-Kanniyakumari Industrial,
Corridor Project,
Kanchipuram.
- 4.The District Collector,
Kanchipuram District,
Kanchipuram.
- 5.The Divisional Engineer,
Highways Department,
Chengalpet.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in ROC No./CKICP/ CLA/ 15(1)/ SH-58/ 10 / 2020 in No. VI(1).274(b-10) / 2020 dated 14.08.2020 published in the Tamil Nadu Gazette quash the same in so far as petitioners land in S.No.21, 23, 24, 26 and consequently forbear the respondent from interfering with the peaceful possession of the lands belonging to the petitioner comprised in S.No.120/1 (0.20) Hectares S.No.126/2 (0.16 Hectares) S.No.128/1 (0.81) Hectares and 129/1 0.49 Hectares in No.87 Vallapakkam Village, Walajabad Taluk Kanchipuram District without following the due process of law.



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For Petitioner : Mr.C.Vigneswaran

For Respondents : Mr.P.Sathish
Additional Government Advocate

O R D E R

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in ROC No./CKICP/ CLA/ 15(1)/ SH-58/ 10 / 2020 in No. VI(1).274(b-10) / 2020 dated 14.08.2020 published in the Tamil Nadu Gazette quash the same in so far as petitioners land in S.No.21 23 24 26 and consequently forbear the respondent from interfering with the peaceful possession of the lands belonging to the petitioner comprised in S.No.120/1 (0.20) Hectares S.No.126/2 (0.16 Hectares) S.No.128/1 0.81) Hectares and 129/1 0.49 Hectares in No.87 Vallapakkam Village, Walajabad Taluk Kanchipuram District without following the due process of law.

2. The learned Additional Government Advocate takes notice for the official respondents. In view of the limited relief sought for in this petition and on the consent of the learned counsel appearing on either side, this petition is taken up for final disposal.

3. The case of the petitioner is that the properties comprised in S.No.120/1 (0.20) Hectares S.No.126/2 (0.16 Hectares) S.No.128/1 (0.81) Hectares and 129/1 0.49 Hectares in No.87 Vallapakkam Village, Walajabad Taluk, Kanchipuram District was owned by one Ambikapathy / husband of the petitioner. When the petitioner's husband was alive, he dig a well for agricultural purpose and after the death of the petitioner's husband, the petitioner's family is in possession and enjoyment of the said properties. While so, 5th respondent initiated Land Acquisition proceedings, under the State Highways Act, 2001. Aggrieved by the same, the petitioner made objection, before the District Revenue Officer, Kanchipuram and the said objection was forwarded to the 5th respondent, on 20.06.2018. Thereafter, the petitioner sent another letter dated 08.12.2018, to the 4th respondent, saying that if the well is acquired, the petitioner may not be able to cultivate the agricultural land effectively. However, without considering the petitioner's objection the 3rd respondent had issued notice on 08.03.2019, under Section 15(2) of the Tamil Nadu Highway Act. Pursuant to which the petitioner



made application on 03.04.2019. In the meanwhile, the 3rd respondent had called for an enquiry under Section 19(2) for determination of compensation in September 2020. However, the petitioner reiterated his stand of dropping the acquisition proceedings in respect of lands in which the well is situated, vide his letter dated 05.10.2020. The 3rd respondent forwarded the same to the 5th respondent vide letter dated 06.10.2020. Without considering the objections, the 3rd respondent vide proceedings dated 01.12.2020, once again called the petitioner to be present for an enquiry for determination of the amount under section 19 of the said Act. The petitioner once again made his objection vide letter dated 21.12.2020 and requested to give the details of the Road Over Bridge which was sought to be laid over the well and the same was also forwarded by the 3rd respondent to the 5th respondent, by proceedings dated 28.12.2020. However, without considering any of the above, the respondents have passed the award in Award No.99/2021, dated 30.06.2021. However, till date the same was not served on the petitioner and the compensation amount was also not paid to the petitioner. Hence, this Writ Petition is filed with the aforesaid prayer.

4. The learned counsel appearing for the petitioner fairly submitted that as the respondents have passed an award on 30.06.2021 and therefore, challenging the Section 15(1) notification dated 14.08.2020 is of no use. Hence, this Court may permit the petitioner to file appropriate appeal before the District Collector in terms of relevant provisions of the Tamil Nadu Highways Act for claiming the enhanced compensation.

5. The Additional Government Advocate appearing on behalf of the official respondents has no serious objection for the limited relief sought for by the petitioner.

6. In view of the fact that award has been passed in absence of any interim order, the prayer of the petitioner challenging the notification issued under Section 15(1) will no longer survive. In such circumstances, this Court, without interfering with the impugned notification, directs the 3rd respondent to refer the matter to the 4th respondent or the competent authority, for determination of the compensation amount to be paid to the petitioner, within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the 4th respondent or the competent authority shall decide the fair compensation to be paid to the petitioner within a period of twelve weeks thereafter, in terms of the said Act and relevant Government Orders.



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7. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VII)

//True copy//

Sub Assistant Registrar

Psa

To

1. The Secretary to Government,
The State of Tamil Nadu,
Highways and Minor Ports Department,
Secretariat, Fort St.George,
Chennai 600 009.

2.The Commissioner of Land Acquisition,
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Chennai-600 005.

3.The Special District Revenue Officer,
(Land Acquisition Officer),
Chennai-Kanniyakumari Industrial,
Corridor Project,
Kanchipuram.

4.The District Collector,
Kanchipuram District,
Kanchipuram.

5.The Divisional Engineer,
Highways Department,
Chengalpet.

+1cc to Mr.C.Vigneswaran, Advocate SR.No.21833

+1cc to Government Pleader SR.No.21708

W.P. No.7444 of 2022

SS(CO)
GMY(27/05/2022)