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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2022

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P. No.25983 of 2021
and W.M.P.No.27438 of 2021

D.Jagan Mohan

... Petitioner

-Vs-

1. The Inspector General of
Registration,
120, Santhome High Road,
Chennai - 600 028.

2. The District Registrar (Administration)
Chengalpattu Registration District,
No.10, Kanchipuram High Road,
Chengalpattu Bazaar,
Chengalpattu - 602 002.

3. The Sub-Registrar,
Thirukkazhukundram Sub Registration Office,
Thirukkazhukundram,
Chengalpatty District - 603 109.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the third respondent in connection with the impugned order in RFL/Thirukazhukundram/11/2021 passed by the third respondent and quash the same and consequently direct the third respondent to register the sale deed dated 24.11.2021 executed by M.G.Prameswaran and M.G.Sundarrajan in favour of the petitioner as per law within a time frame fixed by this Court.

For Petitioner : Mr.M.Ramamoorthy

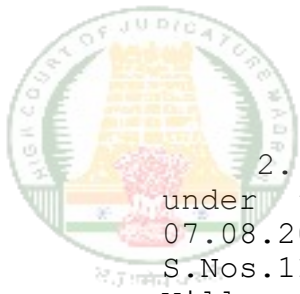
For Mr.K.Sathiyamoorthi

For Respondents: Mr.Yogesh Kannadasan

Special Government Pleader.

ORDER

The Writ Petition has been filed to call for the records of the third respondent in connection with the impugned order in RFL/ Thirukazhukundram/11/2021 passed by the third respondent and quash the same and consequently direct the third respondent to register the sale deed dated 24.11.2021 executed by M.G.Prameswaran and M.G.Sundarrajan in favour of the petitioner as per law within a time frame.



2. The case of the petitioner is that the Government under the preliminary notifications dated 29.07.2019 and 07.08.2019 has proposed to acquire land comprised in S.Nos.117/22, 112/11B and 113/12, situated at Mamallapuram Village for the purpose of Mamallapuram-Puducherry Express Highway project, under the gazette notification in S.O.No.2864 (E) dated 29.07.2019 under Section 3D(2) of the National Highways Act, 1956. Some extent of the land comprised in the above said survey numbers has been owned by one M.G.Parameswaran and he borrowed money from the petitioner to give treatment for his mother and he agreed to repay the said amount after selling his property.

3. However, the third respondent informed that no deed of conveyance can be registered in respect of the afore said lands covered under the notification for acquiring lands for Mamallapuram-Puducherry Express Highway project, since the preliminary notification was published on 29.07.2019. Further the Special Deputy Revenue Officer (LA) Mamallapuram-Puducherry Express Highway Project, has passed instructions to the Registration Department on 10.12.2020 stating that under Section 11(4) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (herein after referred to as "the New Act"), places a restriction on any transactions of the land, subsequent to the preliminary notification.

4. The learned counsel appearing for the petitioner submitted that Section 11(4) of the New Act is not applicable to the National Highways Act, since the land acquisition proceedings are continuing for some time, the transfer of ownership in respect of the property during these proceedings cannot be ruled out. On this account, the law recognizes the land owner or the person interested, as such the successor in interest, whether by way of inheritance or by way of sale purchase of the subject land remains entitled to receive the compensation in respect of such land subject to such person being a bonafide purchaser.

5. Heard Mr.M.Ramamoorthy, learned counsel appearing for the petitioner and Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondents.

6. The sale deed presented by the petitioner dated 24.11.2021 for registration with requisite stamp duty and registration charges, was refused to register by the third respondent by the impugned Check Slip dated 24.11.2021, for the reason that the Competent Authority and the Special District Revenue Officer (LA), Mamallapuram-Puducherry Express Highway Project, had directed to withhold the registration of documents in respect of the land covered by the preliminary notifications for the land acquisition and also stated that the petitioner has to obtained "No Objection Certificate" from the Competent Authority.



7. However, the Manual of Guidelines on Land Acquisition for National Highways under the National Highways Act, recognizes such transfers of property after preliminary notification and the Government has issued guidelines for distribution of compensation on such transfer of ownership of land during the acquisition proceedings. Other factors in 3(5) (6) of the Manual of Guidelines on Land Acquisition for National Highways Act, reads as follows :-

"3.5.6. Other factor:- (i) Another issue has cropped up regarding the change of ownership of land during the process of acquisition. Though Section 11(4) of the New Act places a restriction on any transaction of the land subsequent to the preliminary Notification, it is not applicable to the National Highways Act, 1956. Further, since the proceedings of land acquisition continue for some time, the possibility of a land owner deciding to sell or transfer his/her land during these proceedings cannot be ruled out. It is on this account that the law recognizes the landowner or the person interested therein. As such the successor-in-interest, whether by way of inheritance or by way of sale/purchase of the subject land, remains entitled to receive the compensation in respect of such land subject to such person being a bona-fide successor-in-interest"

In the acquisition of land under the National Highways Act, 1956, the Manual of Guidelines issued by the Government of India would apply. Therefore, the impugned order passed by the third respondent is violative of the law and is liable to be set aside.

8. In view of the above discussion, the impugned refusal check slip dated 24.11.2021 passed by the third respondent in RFL/Thirukazhukundram/ 11/2021 is hereby quashed. The petitioner is directed to re-present the sale deed dated 24.11.2021, before the third respondent within a period of two weeks from the date of receipt of a copy of this Order and on receipt of the same, the third respondent is directed to register and release the same, if it is otherwise in order, within a period of four weeks thereafter.



9. With the above directions, the Writ Petition stands allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

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Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rts
To

1. The Inspector General of
Registration,
120, Santhome High Road,
Chennai - 600 028.
2. The District Registrar (Administration)
Chengalpattu Registration District,
No.10, Kanchipuram High Road,
Chengalpattu Bazaar,
Chengalpattu - 602 002.
3. The Sub-Registrar,
Thirukkazhukundram Sub Registration Office,
Thirukkazhukundram,
Chengalpatty District - 603 109.

+1 cc to Mr.K.Sathiyamoorthi, Advocate Sr.NO. 5092
+1 cc to Government Pleader Sr.NO. 5643

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gpl(CO)
A.SK(21.02.2022)