

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2022

CORAM

THE HONOURABLE Mr. JUSTICE M.DHANDAPANI

WP.No.28445 of 2021
and W.M.P.No.30039 of 2021

Sanjandevi Metha

...Petitioner

Vs

1.The Secretary to Government,
Housing & Urban Development,
Secretariat, Chennai-9.

2.The District Collector,
Chengalpattu,
Chengalpattu District.

3.The Special Tahsildar
(Land Acquisition I)
Marimalai Nagar Scheme,
Kattankolathur,
Chengalpet Circle,
Kancheepuram District.

4.The Member Secretary,
CMDA No.8, Thalamuthu Natarajan Maligai,
Egmore, Chennai-8.

...Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to reconvey/release the petitioner's land situated at No.80, Thirukkatchur Village, Chengalpet Taluk, Kancheepuram District, comprised in Survey Nos.544/1A and 544/1B measuring an extent of 0.54 cents and 0.13 cents respectively in pursuant to the G.OMs.No.497 dated 23.03.1987 and issue patta in favour of the petitioner.

For Petitioners : Mr.A.Saravanan

For Respondents : Mr.V.Veluchamy RR1 to 3
Additional Government Pleader
Mr.K.Thirunavukkarasu R4

ORDER

This writ petition is filed seeking direction to the respondents to reconvey/release the petitioner's land situated at No.80, Thirukkatchur Village, Chengalpet Taluk, Kancheepuram District, comprised in Survey Nos.544/1A and 544/1B measuring an extent of 0.54 cents and 0.13 cents respectively in pursuant to the G.O.Ms.No.497 dated 23.03.1987 and issue patta in favour of the petitioner.

2. The case of the petitioner is that the petitioner had purchased land measuring an extent of 0.54 cents, bearing old S.No.544/1, New S.No.544/1A and measuring an extent of 0.13 cents bearing S.No.544/1B situated in Thirukkatchur Village, Chengalpet Taluk, Kancheepuram District now in Chengalpet District through my power of attorney/son from one Zulaikha Yahiya and Mohammed Ghouse, who are the legal heirs of Khader Bee. The said Khader Bee was the original owner of the above said land, who died on 24.06.2000. The petitioner's vendor are the only legal heirs of the land, who were sold the abovesaid land to the petitioner vide sale deed dated 03.02.2006 in document No.1052/2006 on the file of the Joint Sub Registrar-II, Chengalpet.

3. That being the case, the 4th respondent issued notification for acquiring an extent of land measuring 94.27 acres comprised in Survey Nos.91 at 74 Thirukatchur Village, Chengalpet Taluk for formation of a new town known as Maraimalai Nagar. After completing all the formalities, the award enquiry was conducted on 28.08.1986. The award No.13 of 1986 was passed on 12.09.1986 for the formation of Maraimalai Nagar in an area measuring 25.92 acres. The petitioner's land measuring an extent of 0.54 cents, bearing old S.No.544/1 New S.No.544/1A and measuring an extent of 0.13 cents bearing S.No.544/1B though acquired by the Government were subsequently excluded from acquisition and the same was evidenced by the Government order bearing G.O.Ms.No.497 dated 23.03.1987. Thereafter, vide G.O.Ms.No.134 dated 23.08.1998 the lands which were excluded under G.O.Ms.No.497 was sought to be restored. The said action was challenged by the some land owners before this Court by way of a writ petition and this Court, vide order dated 26.04.2007 allowed the writ petition as prayed for and the G.O.Ms.No.134 was quashed.

4. Under these circumstances, the petitioner purchased the aforesaid property on 03.02.2006 which was subsequent to the order of exclusion dated 23.03.1987. However, this Court by order dated 17.10.2008 passed in W.P.No.9437 of 2006 dismissed the writ petition filed by one Vasanthakumari on the ground that she is a subsequent purchaser and hence, she is not entitled to

any notice under the Act. However, the earlier decisions had quashed the G.O.Ms.No.134 on the ground that once the lands are excluded only fresh proceedings have to be initiated for acquisition under the Land Acquisition Act. Though the award was passed on 19.09.1986, the respondents 3 & 4 have excluded the property from the acquisition as early as 23.03.1987. Thereafter, no fresh notice was issued under Section 4(1) of the Land Acquisition Act to acquire the said property. In the absence of the notification, the respondents are bound to hand over the properties to the petitioner. However, the respondents have also not paid the compensation amount till date.

5. In the said circumstances, the petitioner made a representation on 23.11.2021 to the respondents to recover/release the petitioners land and to issue patta in his name. Till date, the said representation was not considered by the respondents and hence, the present writ petition has been filed before this Court seeking appropriate remedy.

6. The learned counsel for the petitioner submitted that this court may issue suitable direction to the respondents to consider the petitioner's representation dated 23.11.2021 within the stipulated period as fixed by this Court.

7. Heard, the learned counsel for the petitioner as well as the learned counsel appearing for the Government and perused the materials available on record.

8. Considering the facts and circumstances of the case and considering the limited relief sought for by the petitioner, this Court, without going into the merits of the case, directs the respondents to consider the petitioner's representation dated 23.11.2021 and pass orders on merits and in accordance with law, after affording opportunity to the necessary parties, within a period of twelve weeks from the date of receipt of a copy of this order.

9. With the aforesaid direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Housing & Urban Development,
Secretariat, Chennai-9.
- 2.The District Collector,
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Chengalpattu District.
- 3.The Special Tahsildar
(Land Acquisition I)
Marimalai Nagar Scheme,
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Chengalpet Circle,
Kancheepuram District.
- 4.The Member Secretary,
CMDA No.8, Thalamuthu Natarajan Maligai,
Egmore, Chennai-8.

+lcc to Mr.A.Saravanan, Advocate SR. No.18052
+lcc to Government Pleader SR. No.18546

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SPD (CO)
PR (28/03/2022)