

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.25728 of 2017

And

W.M.P.Nos.27137 to 27139 of 2017

V.Palanivel

... Petitioner

Vs.

1.The State of Tamil Nadu

Rep. by its Secretary to State,
Department of Highways,
Fort St.George,
Chennai 600 009.

2.The District Collector,

Office of the Collectorate of Kanchipuram,
Kanchipuram.

3.The Tahsildar,

Sholinganallur Taluk,
Sholinganallur,
Chennai.

4.The Commissioner,

Corporation of Chennai,
Rippon Buildings,
Chennai.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents from in any manner interfering or disturbing the petitioner's peaceful possession and enjoyment of the property at Old Door No.1/164, New Door No.213, Velacherry Main Road, Pallikaranai, Chennai, measuring 2327.5 Sq.ft., comprised in Natham S.No.253/5 at Pallikaranai Village morefully described in Item No.1 and 2 of the Schedule to the petition.

For Petitioner : Mr.T.Sundar Rajan

For Respondents : Mr.G.Krishna Raja
Additional Government Pleader

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus forbearing the respondents from in any manner interfering or disturbing the petitioner's peaceful possession and enjoyment of the property at Old Door No.1/164, New Door No.213, Velacherry Main Road, Pallikaranai, Chennai, measuring 2327.5 Sq.ft., comprised in Natham S.No.253/5 at Pallikaranai Village morefully described in Item No.1 and 2 of the Schedule to the petition.

2.The case of the petitioner is that the petitioner's mother purchased the subject property and after getting approval for construction of flour mill, constructed a flour mill in the subject property and was running the flour mill with valid licence and was residing there with the family. The petitioner's parents passed away during the year 1997 and after their demise the petitioner was running the flour mill and had also let out portions of the property for three shops. While such being the position, on 17.09.2017, some unknown persons barged into the flour mill and demolished the entire building with a bull dozer. When questioned about the said act, the petitioner was informed that the properties were required for road widening for Highways Department. Hence, this writ petition.

3.The learned counsel appearing for the petitioner submitted that prior to the filing of this writ petition, the entire building was demolished. The learned counsel further submitted that this Court vide order dated 03.10.2017, directed the respondents to maintain status quo, however, since the property belong to the petitioner and since the entire building was demolished, this Court may issue direction to the respondents to pay appropriate compensation to the petitioner.

4.The first respondent has filed a counter affidavit, wherein, it is stated that the petitioner had encroached land measuring 1400 sq.ft., building belonging to the Highways Department and after making necessary marking and after putting the petitioner and other encroachers on notice, the demolition drive was carried on 17.09.2017. It is further stated that the

petitioner has given his consent for demolition and hence, the question of compensation cannot be considered.

5.Heard the arguments advanced on either side and perused the materials available on record.

6.Though the petitioner has filed this writ petition seeking issuance of Writ of Mandamus forbearing the respondents from in any manner interfering or disturbing the petitioner's peaceful possession and enjoyment of the property, the fact remains that prior to the filing of this writ petition, the entire building was demolished. Though the petitioner claim that his mother purchased the property, the respondents claim that the petitioner had encroached land measuring 1400 sq.ft., belonging to the Highways Department. Hence, the dispute inbetween the petitioner and the respondents is civil dispute and the remedy available to the petitioner is to file appropriate claim petition claiming damages and the issue cannot be decided by this Court under Article 226 of the Constitution of India.

7.The writ petition is accordingly dismissed. However, liberty is granted to the petitioner to work out the remedy in the manner known to law. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

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1.The Secretery to Govt,
Department of Highways,
Fort St.George,
Chennai 600 009.

2.The District Collector,
Office of the Collectorate of Kanchipuram,
Kanchipuram.

3.The Tahsildar,
Sholinganallur Taluk,
Sholinganallur,
Chennai.

4.The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai.

+1cc to Mr.T.Sundar Rajan, Advocate SR.No.36086

+1cc to the Government Pleader, SR.No.37196

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PL(CO)

CB(19/07/2022)