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W.P.No.34051 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.34051 of 2022
and WMP.No.33506 of 2022

K.Jayachandran

... Petitioner

-Vs-

1. The Chennai Metro Rail Limited,
Rep. by its Estate Officer/Deputy Collector,
CMRL Depot, Admin Building,
Poonamallee High Road,
Koyambedu – 600 107.
2. The District Revenue Officer (Land Acquisition),
Office of Chennai Metro Rail
Koyambedu, Chennai – 600 107.
3. The Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai – 600 055.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the respondents 1 and 2 from in any manner interfering with the peaceful possession and enjoyment of the petitioner in the property morefully described in the schedule to the writ petition, other than by following the due process of law.



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For Petitioner : Mr.B.Aravind Srevatsa
For Respondents : Mr.Jayesh B.Dolia,
Standing Counsel [R1]
Mr.R.Shanmugasundaram
Advocate General, assisted by
Mr.Yogesh Kannadasan
Special Government Pleader [R2]

ORDER

The prayer sought for herein is for a writ of mandamus forbearing the respondents 1 and 2 from in any manner interfering with the peaceful possession and enjoyment of the petitioner in the property morefully described in the schedule to the writ petition, other than by following the due process of law.

2. The property with a small built up to the extent of 150 sq.ft at S.Nos.5794, 5797 and 5798 in Plot No.3, Door No.1 situated at T.Nagar South-West Path Road, Chennai, claims to be the property of the petitioner, which he claimed to have purchased from the erstwhile owner, who was the allottee under the third respondent i.e., Tamil Nadu Slum Clearance Board.



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3. This document according to the petitioner's counsel having been considered and registered by the concerned Register Office, therefore, the petitioner has become the absolute owner of the said property.

4. When that being so, for the purpose of the first respondent i.e., Chennai Metro Rail Limited, the second respondent wanted to acquire certain properties including the present property, which according to the second respondent found through the Revenue records that, it is the Government poramboke land and therefore, they initially treated the petitioner only as an encroacher and accordingly, they issued a notice on 14.07.2022 fixing the date of hearing on 28.07.2022 to appear before them, which the petitioner has complied.

5. Thereafter, for some months since there was no reply from them, sometime in October, 2022 i.e., on 18.10.2022, the petitioner had given a detailed representation and thereafter also since there was no reply from the respondents, the petitioner on 19.11.2022 invoked the provisions of Right to Information Act, 2005 and raised two queries, the first query was that, under which proceedings leading to the letter dated 14.07.2022 that was sent by the District Revenue Officer i.e., second respondent and the



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second query was that, under which Act, they want to acquire the land for the purpose of Chennai Metro Rail Limited. The two queries were answered, where in respect of the second query, they stated that under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, this acquisition is going to be taken place.

6. However, insofar as the extract from the Town Survey Land Register shows that the land in question is a sarkar poromboke land. However, the Adangal says that, it belongs to Chennai Metropolitan Water Supply and Sewerage Board.

7. With these documents in hands, when the petitioner was apprehending some action on the part of the respondents to evict the petitioner forcefully, now the notice has been issued by the first respondent with regard to the acquisition of the land invoking the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997, where a public hearing has also been fixed on 10.01.2023 at the first respondent office.

8. Only at this juncture, the petitioner with the apprehension has



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approached this Court seeking for the aforesaid prayer to restrain the respondents from interfering the peaceful possession and enjoyment of the property in question.

9. Reiterating the aforesaid, Mr.B.Aravind Srevatsa, learned counsel appearing for the petitioner would submit that, insofar as the land in question is concerned, it is a allotted land by the Slum Clearance Board made to the erstwhile allottee, from whom the petitioner has purchased the same and therefore, the petitioner since has become the absolute owner of the property and if at all the land is to be acquired by the second respondent for the purpose of the first respondent, proper procedure have to be adopted. Therefore, even though hearing has been fixed on 10.01.2023, on that date, if the petitioner goes there and makes his representation, whethre it would be considered in the light of the Revenue extract saying that it is a poromboke land, therefore, the interest of the petitioner can be protected by this Court, he contended.

10. However, Mr.R.Shanmugasundaram, learned Advocate General assisted by Mr.Yogesh Kannadasan, learned Special Government Pleader



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appearing for the second and third respondents and Mr.Jayesh B.Dolia,

learned Standing Counsel appearing for the first respondent have submitted that, insofar as the land in question is concerned, thought it was claimed by the petitioner that, it is his own land and he purchased from the original allottee of the Slum Clearance Board, the Revenue Record still shows that it is a sarkar poromboke, probably, the allotment originally made by the Slum Clearance Board to the allottee might not have been properly utilized as there seems to have been some dues payable by the original allottee to the Slum Clearance Board, therefore, the title could not have been transferred and the necessary mutation could not have been effected. Therefore, at this juncture, if the petitioner come forward with the respondents for any negotiation for acquiring the land by invoking the provisions of the 1997 Act, certainly, the respondents would consider such a plea to be made by the petitioner, he contended.

11. I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

12. Insofar as the claim made by the petitioner that he is the owner of the property is concerned, it seems that the land was originally allotted



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to some third party, who is an allottee under the Tamil Nadu Slum Clearance Board, from whom the petitioner purchased the property for valid sale consideration and the document is registered, where the petitioner has already put up a construction and he has been in possession and enjoyment of the property, in all probability that kind of ownership claimed by the petitioner has to be recognized by the respondents.

13. Moreover, now the petitioner has come forward to go for a negotiation with the respondents, which factor also has not been disputed by the respondents, therefore on 10.01.2023, on the date of hearing, let the petitioner go before the first respondent and make his offer for negotiation to acquire the land for a valid compensation and accordingly, the respondents shall negotiate with the petitioner and finalize the negotiation by fixing the compensation within the provisions of the 1997 Act as referred to above and accordingly, the issue can be settled amicably between the parties.

14. In view of the aforestated, the question of acquiring the land of the petitioner, without properly invoking the land acquisition proceedings, which includes the negotiation as indicated above, does not arise.



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Therefore, till such negotiation is completed and reduced into writing, the land in question belongs to the petitioner shall not be disturbed without the due process of law.

With these directions, this writ petition is disposed of. No costs.

Connected miscellaneous petition is closed.

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Index : Yes/No

Speaking order: Yes/No

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R. SURESH KUMAR, J.



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