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WP.No.29610 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

WP.No.29610 of 2017 &

WMP.No.31895 of 2017

Packia Bama

... Petitioner

Vs

The Divisional Engineer [Highways],
C.M.D.A. Plan, Division IV,
Highways Department,
Alandur, Chennai – 600 016.

... Respondent

Prayer:- Writ Petition filed under the Article 226 of Constitution of India, to issue a Writ of Mandamus to forbear the respondent to remove the petitioner's building measuring an extent of 508.15 sq.mts., comprised in Survey No.384, No.7/11, Kamaraj Thottak, Tambaram Main Road, Medavakkam without due process of law.

For Petitioner : Dr.A.Thiagarajan
for Mr.A.S.Mujibur Rahman

For Respondent : Mr.Karhick Jegannathan
Government Advocate



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ORDER

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This writ petition has been filed to forbear the respondent to remove the petitioner's building measuring an extent of 508.15 sq.mts., comprised in Survey No.384, No.7/11, Kamaraj Thottak, Tambaram Main Road, Medavakkam without due process of law.

2. It is the case of the petitioner that the land comprised in Survey No.384 was purchased by the petitioner under a Registered Sale Deed dated 17.04.2006 and from the date of purchase, she is in possession of the property. When the matter stood this, the respondent issued notice No.149 of 2016 dated 15.02.2016 by marking the above Survey No.384 to an extent of 10x39 ft., over and above the lands already marked and directed to hand over the same to the respondent. The respondent has already marked 108/15 sq.ft. of land for widening of the existing road and the petitioner has also handed over the said land to the petitioner. Again, the respondent, not satisfied with 390 sq.ft., has sent the above impugned Order. Challenging the same, the present Writ Petition has been filed.



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3. In the counter, the stand taken by the respondent is that the Government has accorded sanction in G.O.Ms.No.100/Highways and Minor Ports Department, dated 14.08.2015 for construction of Grade Separator connecting Medavakkam – Sholinganallur Road Junction, Medavakkam, Mambakkam Road Junction for improvement of Marmalong Bridge – Irumbuliyur Road and land acquisition under Land Acquisition Act 1894 was initiated in the year 1973 and draft notification was published on 23.09.1986 and possession was taken in the year 1987. As far as the petitioner's land in Survey No.384/11 is concerned, the land was acquired under Tamil Nadu Urban Land [Ceiling and Regulation] Act 1978 and the respondent has also initiated necessary process for transfer of lands and hence, sought to dismiss this Writ Petition.

4. The learned counsel appearing of the petitioner submitted that part of the property has already been acquired in the year 2016 and the respondent is trying to demolish the building in the name of extending Highways.



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5. Whereas, the learned counsel appearing for the respondent submitted that the petitioner has no right over the land acquired by the respondent and the same has already been acquired by the respondent in the year 1996 and because of the Writ Petitions, extension of the work in the Highways could not be completed and hence, the writ petition cannot maintain this Writ Petition.

6. I have perused entire materials available on record. Though the petitioner claims that the respondent is trying to acquire the land of the petitioner, from the records it could be seen that the land has already been acquired in the year 1986 itself. In such view of the matter, as the land has already been acquired, the petitioner, who is only an encroacher, has no right in the property and he cannot obstruct with the work which was entrusted with the Highways Department for widening the road. Hence, I do not find any merits in this Writ Petition.

7. Accordingly, this Writ Petition is dismissed. Consequently,



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connected miscellaneous petition is closed. No costs.

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vrc

To,

The Divisional Engineer [Highways],
C.M.D.A. Plan, Division IV,
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N.SATHISH KUMAR, J.

VTC

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