

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.NO.35459 OF 2019

&

W.M.P.NO.36281 OF 2019

The Temple Steps Owners Association,
'Temple Steps',
184-187, Anna Salai,
Little Mount, Saidapet,
Cennai - 600 015.
By the Secretary,
P.Sathyamurthy.

... Petitioner

.Vs.

The Estate Officer and JGM,
Chennai Metro Rail Limited,
CMRL Depot, Admin Building,
Poonamallee High Road,
Koyambedu,
Chennai - 600 107.

... Respondent

PRAYER:- Writ Petition filed Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified mandamus calling for the Demand Notice of the respondent dated 22.11.2019 in RC.No.Est/D.N/Land-Phase-I/01/2019 and to quash the same and to further direct the respondent to give a personal hearing as contained in the petitioner's representation dated 27.11.2019.

For Petitioner : Mr.B.Ravi Raja

For Respondent : Mr.Jayesh B.Dolia
For M/s.Aiyar & Dolia

ORDER

(1) The prayer in the writ petition reads as follows:

'Writ Petition filed for issuance of a writ
of certiorarified mandamus calling for the Demand

Notice of the respondent dated 22.11.2019 in RC.No.Est/D.N/Land-Phase-I/01/2019 and to quash the same and to further direct the respondent to give a personal hearing as contained in the petitioner's representation dated 27.11.2019.'

- (2) The grievance of the petitioner Association is that the respondent had demanded rent for use of the passage which becomes indispensable access for the premises of the petitioner after acquisition made by the Chennai Metro Rail Limited [CMRL]. Now it transpires that CMRL has given up the demand of rent for the passage and a Memorandum of Understanding to that effect has been entered into between the petitioner Association and CMRL on 18.03.2021.
- (3) Under the said Memorandum of Understanding, CMRL has also agreed to pay a sum of Rs.31,00,000/- [Rupees Thirty One Lakhs only] to the petitioner. When they were pressed for payment by the petitioner, it appears that CMRL came out with a reply claiming that some third party has made a claim asserting title to the property in the pending LAOP seeking enhancement of compensation. Having accepted that the petitioner Association is the owner of the land and having entered into a MOU with the petitioner Association, it is not open to CMRL to plead that someone else had made a claim over the property.
- (4) Section 10 of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997, imposes an obligation upon the Acquiring Authority to pay the compensation to the person who according to it, is the owner of the property. No doubt, sub-section [3] of Section 10 of the Act provides that the compensation need not be paid to the person from whom the land has been acquired if it is found that there are disputes as to title to receive the amount. The proviso to Section 10 safeguards the rights of third parties where it imposes a liability on the part of the person who had received the compensation to pay the same to the person who is lawfully entitled thereto. Therefore, CMRL or the Acquiring Body is well protected from any liability being fastened on it and it is for the person who receives the money to pay the actual owner in case there is a decision of title subsequent to the claim.
- (5) The Estate Officer of CMRL has filed a counter affidavit and paragraph No.7 of the same reads as follows:-

''7.I respectfully submit that CMRL is ready to release the said sum of Rs.31,00,000/- in

terms of the orders of this Hon'ble Court either to the petitioner or to the account of LA.OP.28 of 2013 pending on the file of VI Asst. Judge, City Civil Court, Chennai wherein an IA filed by a third party is pending.''

- (6) In view of the above, I do not think that CMRL could refuse payment. CMRL is therefore directed to pay the compensation to the petitioner Association and the petitioner Association is required to execute an Indemnity Bond agreeing to indemnify CMRL in the event of it incurring any liability because of such payment made to the petitioner. The petitioner Association will also keep the money in a Fixed Deposit with their Bankers for a period of three years and produce the copy of the Fixed Deposit Receipt to the Estate Officer, CMRL. The Fixed Deposit shall not be foreclosed or otherwise dealt with during the period of three years.
- (7) Mr.B.Ravi Raja, learned counsel for the petitioner would submit that he has instructions to withdraw the Land Acquisition Original Petition that is pending on a reference made under Section 10 of the Act, in LAOP.No.28/2013 on the file of the learned VI Assistant Judge, City Civil Court, Chennai. It is open to him to withdraw the LAOP at the earliest. The payment by CMRL shall be made within a period of four weeks from today.
- (8) The writ petition stands disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

AP

To

1. The VI Assistant Judge,
The City Civil Court,
Chennai.

2. The Estate Officer and JGM,
Chennai Metro Rail Limited,
CMRL Depot, Admin Building,
Poonamallee High Road,
Koyambedu,
Chennai - 600 107.

+4ccs to Mr.B.Ravi Raja, Advocate, S.R.No.42391

+1cc to Mr.Jayesh B.Dolia, Advocate, S.R.No.43119

W.P.NO.35459 OF 2019

SKM(CO)

PBS/21/07/2022