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W.P.No.29069 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2022

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.29069 of 2018

and

WMP.No.33997 of 2018

M/s.C.S.I Emmanuel Church,
Rep. by its Pastor
Rev.S.Sam Rajkumar,
Old No.35, 1st Lane, Church Street,
Thangam Colony, 6th Avenue,
Anna Nagar, Chennai - 600 040.

...Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Commissioner & Secretary,
Housing and Urban Development,
St. George Fort, Chennai - 600 009.
2. The Chairman and Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.
3. The Commissioner,
Corporation of Chennai,
Greater Chennai,
Rippon Building, Chennai - 600 003.
4. The Executive Engineer,
Tamil Nadu Housing Board,



W.P.No.29069 of 2018

Anna Nagar, Chennai - 600 040.

WEB COPY

5. The Tahsildar,
Aminjikarai Taluk,
Chennai - 600 107.

...Respondents

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondents to permit the petitioner's church situated in Old.No.35, 1st Lane, Church Street, Thangam Colony, 6th Avenue, Anna Nagar, Chennai - 600 040 to remain in the same place till the alternative site allotted as indicated by the orders of the Hon'ble Bench of High Court rendered WA.Nos.226 of 2005 etc., and upheld by the Hon'be Supreme Court in SLP.No.5224 of 2007.

For Petitioner : Mr.S.Ilamvaludhi

For Respondents : Mr.U.Baranidharan, AGP, for R1 & R5
: Mr.A.M.Ravindranath Jeyapal, for R2 & R4
: M/s.Ashwini Ravi, for R3

ORDER

The petitioner has filed this Writ petition seeking issuance of a Writ of Mandamus to direct the respondents to permit the petitioner's church situated at Old.No.35, 1st Lane, Church Street, Thangam Colony, 6th Avenue, Anna Nagar, Chennai - 600 040 to remain in the same place till the alternative site is allotted as indicated in the order made in W.A.Nos.226 of 2005 etc., and upheld by the Hon'be Supreme Court in SLP.No.5224 of



W.P.No.29069 of 2018

WEB COPY

2. The case of the petitioner is that the land was acquired by the respondents for West Madras Neighbourhood Project under the Land Acquisition Act, 1894 (in short 'the Act') and a notification was issued in 1961 to acquire a vast extent of land measuring 1300 Acres of land. An extent of 7.88 Acres of land which formed a colony known as "The Thangam Colony" was also included in the notification. Though an award was passed in the year 1966-67, compensation has not been paid till date to them and the possession was also not taken from the land owners. While so, on 29.08.1991, a notice under Section 47 of the Act came to be issued to take over an extent of 1300 square feet of land belonging to the petitioner along with other neighboring lands for laying 60 feet road. Challenging the above notice, a batch of Writ petitions in W.P.No.12775, 23048, 19256, 12257 of 1991 and 1390 and 12125 of 1992 came to be filed by the petitioner and some of the other affected land owners and this Court, by common order dated 08.03.2001, disposed of those Writ petition with certain directions. When the above said common order was taken on appeal by the Tamil Nadu Housing Board in W.A.Nos.226 to 231, 425 of 2005 and



W.P.No.29069 of 2018

254, 255, 456 & 457 of 2006, a Division Bench of this Court, by order dated 14.06.2006, allowed the Writ appeals in part and modified the order of the learned single Judge to some extent and issued certain directions whereby the respondents were directed to provide alternate site to the land owners who lost their lands and also granted three months' time to the petitioners therein to vacate and hand over the actual area which was required for the formation of 60 feet road. It is the further averment of the petitioner that inspite of the specific direction by this Court and confirmed by the Hon'ble Supreme Court, the petitioner has not been provided with an alternative site. Without providing the alternative site as ordered in W.A. Nos.226 to 231/2005, etc., batch, the petitioner is sought to be displaced aggrieved by which the present petition has been filed for the relief above.

3. Learned counsel for the petitioner submitted that, the subject property was acquired by the petitioner church, vide Gift deed dated 15.12.1960 executed by the said Johnson and pursuant to the same, the petitioner church is in absolute possession and enjoyment of the said property. He further submitted that, though the award was passed in the year 1967, till date, the procedures contemplated under the Land Acquisition



W.P.No.29069 of 2018

Act, 1894 was not followed by the respondents and the payment of compensation as provided under section 31 of the Act has not been complied with and the compensation awarded to the persons entitled has been deposited in the Sub Court instead of disbursing the same, which is not sustainable. Further, learned counsel for the petitioner submits that till alternative accommodation is provided as ordered in W.A.Nos.226 to 231/2005, etc., batch the petitioner shall not be displaced from the present accommodation.

4. Learned counsel appearing for the respective respondents submitted that, though the petitioner church claim that the subject property was gifted in their favour in the year 1960, however, even after a lapse of several years, the petitioner church has not taken any effective steps to mutate the revenue records, which led to the issuance of 4(1) notice and 6 Declaration in the name of the said Thirunavukkarasu, who is shown as the owner of the subject property in the revenue records and accordingly, the acquisition proceedings has been initiated in his name. However, he fairly submitted that, if the petitioner church establishes its right over the subject property before the land acquisition officer, the compensation will be paid in favour of



W.P.No.29069 of 2018

the petitioner church.

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5. Heard learned counsel on either side and perused the materials available on record.

6. Though very many grounds have been raised by the learned counsel for the petitioner, however, at the time of arguments, learned counsel for the petitioner restricted the prayer and sought for necessary direction of this Court to the respondents for payment of compensation amount and also for provision of alternate site as ordered by this Court in W.A.Nos.226 to 231/2005, etc., batch and not to displace the petitioner without following the directions contained therein.

7. Considering the limited request made by the learned counsel for the petitioner, in the absence of any rival claim, as pointed out by the learned counsel for the petitioner, it is the duty of the respondents to tender the compensation to the petitioner. However, without following the said procedure, withholding the compensation by depositing the same in the Court cannot be sustained. In the aforesaid backdrop, this Court directs the



W.P.No.29069 of 2018

respondents to take immediate steps for disbursement of compensation in favour of the petitioner church along with applicable interest in terms of Section 34 of the Land Acquisition Act, 1894 within a period of twelve weeks from the date of receipt of a copy of this order. Further, this Court directs that, if the petitioner is entitled to the benefit of the order passed in W.A.Nos.226 to 231/2005, etc., batch as confirmed by the Hon'ble Supreme Court for providing alternative site, the respondents are directed to scrupulously comply with the directions issued in W.A.Nos.226 to 231/2005, etc., batch for providing alternative site to the petitioner and if the petitioner is entitled for such alternative site, till the same is provided to the petitioner, the petitioner shall not be displaced from the present place.

8. With the above observations and directions, this Writ petition is disposed of. No costs. Consequently, connected Miscellaneous petition is closed.

25.11.2022
(1/3)

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Speaking Order : Yes/ No
Index : Yes/ No

7/9



W.P.No.29069 of 2018

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