



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. [MD]No.12566 of 2018

and

W.M.P (MD) No.11461 of 2018

WEB COPY

P.N.S.S.Mohamed Kalith Uthin Olith

... Petitioner

Vs.

1.The District Collector,
Madurai District,
Madurai - 20.

2.The Commissioner,
Madurai Corporation,
Madurai - 2.

3.The Thasildar,
Madurai South,
Madurai.

4.The Assistant Engineer,
Water and Drainage Board,
Madurai Corporation Regional No.3,
Santhaipettai - Munichalai,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, forbearing the respondents from acquiring the land in Survey Nos.T.S. 1224, 1225 at 9th ward, 12th Block, Madurai City, Madurai and consequently, directing the respondents to pay the compensation, which the respondents already acquired to the extent of 20 cents in No.TS 1224, 1225 at 9th ward, 12th Block, Madurai City, Madurai.

For Petitioner : Mr.P.Suresh Kumar
for Mr.D.Anbarasu

For Respondents : Mr.M.Lingadurai - RR1 & 3
Special Government Pleader

Mr.R.Murali - RR2
Standing counsel

No Appearance - RR4



O R D E R

This writ petition has been filed for a Mandamus seeking for a direction to forbear the respondents from acquiring the land in Survey No.T.S. 1224, 1225 at 9th ward, 12th Block, Madurai City, Madurai and consequently direct the respondents to pay the compensation for the lands which the respondents already acquired to the extent of 20 cents in T.S.Nos.1224 and 1225 at 9th ward, 12th Block, Madurai City, Madurai.

2.It is the case of the petitioner that he is the absolute owner of the aforementioned property having inherited the property after the death of his **(*)grand father** P.N.S.Sintha Mathar, who purchased the same under sale deed dated 24.02.1900. According to the petitioner, the respondents have already acquired 20 cents in T.S.Nos.1224 and 1225 at 9th ward, 12th Block, Madurai City, Madurai, but have not paid compensation to the petitioner. It is also the case of the petitioner that the respondents are also attempting to acquire the remaining lands in T.S.Nos.1224 and 1225. In the aforementioned circumstances, the petitioner has filed this writ petition.

3.The respondents have filed a detailed counter affidavit denying the allegations of the petitioner. In the counter affidavit they have stated that there is no reference to Survey No.TS 1224 and 1225 in the sale deed dated **(*)24.02.1900** under which the petitioner claims compensation by claiming to be the owner.

4.This Court has perused and examined the affidavit and the counter affidavits filed by the respective parties and has also examined the documents filed along with the writ petition.

5.As rightly contended by the learned Standing Counsel for the respondent Municipality, there is no reference to Survey Nos.TS. 1224 and 1225 which are the subject matter of acquisition by the respondent Municipality in the sale deed dated **(*)24.02.1900**. However, learned Counsel for the petitioner submits that though the present survey numbers are not mentioned, the schedule of the property mentioned in the sale deed dated **(*)24.02.1900** is the property which is acquired by the respondents. The petitioner was having the benefit of an interim order from 13.06.2018 onwards.

6.Under the interim order this Court had recorded the undertaking given by the learned Standing Counsel for Madurai Corporation that the Corporation will not disturb the possession of the petitioner till the filing of the counter. The counter affidavit has been filed subsequently by the Madurai Corporation. It is also submitted by the learned Standing Counsel for the respondent Corporation that due to the pendency of this writ petition and due to the recording of the undertaking given by the standing Counsel on



13.06.2018 before this Court, no further progress with regard to the laying of road in the subject lands has taken place. However, he would submit that there is urgency in the matter as public interest will be affected if road is not laid over the subject property. The said statement is also recorded.

WEB COPY

7. After giving due consideration to the aforementioned factors in the interest of both parties concerned, this Court is of the considered view that the petitioner should be directed to appear before the second respondent on 28.02.2022 at 11.00 a.m. and on that date, the second respondent shall hold an enquiry with regard to the acquisition and payment of compensation in respect of the lands in T.S.Nos.1224, 1225 at 9th ward, 12th Block, Madurai City, Madurai, which the petitioner claims that it is his land whereas the same is disputed by the respondents and the petitioner shall be permitted to produce all necessary documentary evidence with regard to his stand before the second respondent Corporation on the enquiry date and the second respondent shall pass final orders on merits and in accordance with law after affording a fair opportunity of hearing to the petitioner within a period of two [2] weeks from 28.02.2022.

8. Till final orders are passed, the interim protection granted by this Court on 13.06.2018 shall continue and thereafter if the respondent Municipality finds that the petitioner is not entitled for any relief while passing the final orders, they shall proceed with the project without any hindrance whatsoever.

9. With the aforesaid direction, this Writ Petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(P & A)

(*)Corrected as per the order of this Court dated 28.02.2022 made in WP(MD) .No.12566 of 2018.

Sd/-

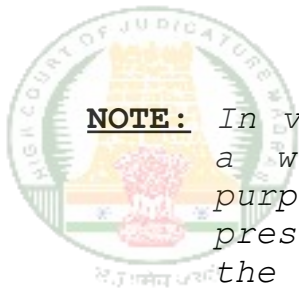
Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

MR



NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

WEB COPY

To

(*)to be substituted to the order already despatched on 25/02/2022

1.The District Collector,
Madurai District,
Madurai - 20.

2.The Commissioner,
Madurai Corporation,
Madurai - 2.

3.The Thasildar,
Madurai South,
Madurai.

4.The Assistant Engineer,
Water and Drainage Board,
Madurai Corporation Regional No.3,
Santhaipettai - Munichalai,
Madurai.

+1 CC to M/s.SPL GP (SR-8073[F] dated 23/02/2022)

+1 CC to M/s.R.MURALI, Advocate (SR-7684[F] dated 22/02/2022)

+1 CC to M/s.D.ANBARASU, Advocate (SR-7869[F] dated 22/02/2022)

ORDER MADE IN

W.P.[MD]No.12566 of 2018

21.02.2022

SVS (CO)

TR(25.02.2022) 4P 8C

RK(08/03/2022) 4P 8C