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W.P.No.4416 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2023

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.4416 of 2023

and

WMP.No.4443, 4444, 4450 & 4454 of 2023

Agarwal Relief and Educational Trust,
Rep by its Managing Trustee, Mr.Murarilal Sonthalia,
No.54, E.V.K.Sampath Road,
Vepery, Chennai – 600 007.

...Petitioner

Vs.

- 1.The Government of Tamilnadu,
Rep by the Secretary, Department of Planning, Development
and Special Initiatives,
Secretariat, Fort St.George,
Chennai – 600 009.
2. The Government of Tamilnadu,
Rep. by the Principle Secretary, Department of Housing and Development,
Secretariat, Fort St.George,
Chennai – 600 009.
3. The Greater Chennai Corporation,
Rep. by its Commissioner,
Rippon Building, No. 1131, EVR Periyar Salai,
Park Town,
Chennai – 600 003.



W.P.No.4416 of 2023

WEB COPY

4. Chennai Metro Rail Limited,
CMRL Depot,
Poonamalle High Road,
Koyambedu,
Chennai – 600 107.

5. Larsen and Toubro Limited,
Mount Poonamalle Road,
Manapakkam,
Chennai – 600 089.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the G.O.M.S.No.37 dated 21.01.2021 passed by the first respondent and quash the same and direct the third respondent to execute necessary documents cancelling the Gift Deed executed by the petitioner Trust in favour of the third respondent dated 22.12.2017 registered as Document No.7671 of 2017 in SRO Madhavaram and declare the whole action of respondent Nos.1 to 4 as unconstitutional and redeliver the lands in an extent of 2721.90 sq.mt. covered by the said Gift Deed.



W.P.No.4416 of 2023

For Petitioner : Mr.A.L.Somayaji
Senior Counsel
for Mr.A.Saravanan
Standing Counsel

For Respondents : Mr.P.Anandhakumar for R1 &R2
Government Advocate

Mrs.P.T.Ramadevi
Standing Counsel for R3

Mr.Jayesh B.Dolia for R4

Mr.Mohammed Moni
for M/s.Aiyar & Dolia for R5

ORDER

This Writ Petition is filed challenging the Government Order dated 21.01.2021 issued by the first respondent granting transfer of lands in the name of the third respondent Corporation to the fourth respondent and also for necessary direction to the third respondent to execute the documents cancelling the Gift Deed executed by the petitioner's Trust in favour of the third respondent on 22.12.2017.

2. The third respondent filed a counter stating that regarding the objections raised by the petitioner, a joint-meeting was convened by the



W.P.No.4416 of 2023

Deputy Commissioner of Chennai Corporation and as per the decision taken in the joint-meeting, the Corporation paid the compensation amount of Rs.44,95,890/- received by it from the fourth respondent to the petitioner and the same was acknowledged by the petitioner on 04.08.2023. After payment of compensation to the petitioner in respect of 271 Sq.mt. of the lands, the lands were handed over to the fourth respondent. As far as the remaining lands in question, the corporation has already passed a resolution on 31.08.2023 recommending to the Government for issue of notification for re-conveying the road portion. The relevant averments of the third respondent corporation in the Counter affidavit reads as follows:

“8. I respectfully submit the subsequently proceedings were processed and on 04.08.2023, a cheque of Rs. 44,95,890/- vide Cheque No. 835713 dated 04.08.2023 was issued and acknowledged by the petitioner on the same date. Thereafter, a Council Resolution was passed vide Resolution No. 488 of 2023 dated 31.08.2023 recommending to the Government for re-conveying the road portion to an extent of 1409 sq.m. And also to re-convey the OSR portion of 1029.90 sq.m. Excluding the land already handed to the 4th respondent in which 271 sq.m on permanent basis and 12 sq.m. on temporary basis.



W.P.No.4416 of 2023

WEB COPY

9. *I respectfully submit that a letter dated 15.09.2023 has been addressed to the Government recommending to re-convey the lands comprising the road portion to an extent of 1409 sq.m. And also to re-convey the OSR portion of 1029.90 sq.m. In favour of the petitioner based on the recommendations in Council Resolution No. 488 of 2023 dated 31.08.2023. Further the powers are vested with the Government at Municipal Administration & Water Supply Department to re-convey the lands in favour of the petitioner vide notification as per the Section 118(2) of the Tamil Nadu Urban Local Body Act, 1908."*

3. By consent of learned Senior Counsel appearing for the petitioner and the learned counsel appearing for the respondents the Writ Petition is disposed with following directions.

4. The above said averments made by the third respondent Corporation is recorded and the first respondent is directed to consider the resolution passed by the third respondent for re-conveying the said lands and take a final decision within a period of 12 weeks from the date of receipt of copy of this order. In case the first respondent issues a notification under Section 118 (2) of Tamil Nadu Urban Local Bodies Act, for re-conveying



W.P.No.4416 of 2023

specified extent of the land, the third respondent corporation shall execute necessary documents for cancellation of the gift deed executed by the petitioner within a period of four weeks from the date of notification by the first respondent.

5. The learned counsel appearing for the fourth respondent, on instructions, submitted that 12 sq.mts of land which was given to the fourth respondent on temporary basis will be surrendered to the petitioner after the CMRL work is over. The said statement of the learned counsel appearing for the fourth respondent is also recorded.

6. The learned counsel for the petitioner submitted that the petitioner may be permitted to seek enhancement of compensation from the respondents 3 and 4 in respect of 271 sq.mts. of land, which was handed over to the fourth respondent. It is always open to the petitioner to work out his remedy in accordance with law for getting enhanced compensation.



W.P.No.4416 of 2023

7. With the above observations, this Writ Petition is disposed of.

No costs. Consequently, connected Miscellaneous Petition is closed.

22.09.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation Case : Yes/No
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To

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Secretariat, Fort St. George,
Chennai – 600 009.
2. The Government of Tamilnadu,
Rep by the Principle Secretary, Department of Housing and Development,
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