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WP Nos.12905 and 18943 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30-06-2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP Nos.12905 and 18943 of 2023

And

WMP Nos.12695, 18186 and 18188 and 2023

T.Bhaskaran

... Petitioner in both WPs

Vs.

The Special District Revenue Official (LA),
CMRL Administrative Office,
Anna Salai,
Nandanam,
Chennai-600 035.

... R-1 in WP No.12905/2023

The Special District Revenue Official (LA),
CMRL Administrative Office,
Koyambedu,
Chennai-600 107.

... R-1 in WP No.18943/2023

The Managing Director,
Chennai Metro Rail Limited,
Metros, 327, Anna Salai,
Nandanam,
Chennai-600 035.

... R-2 in both WPs



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WP No.12905 of 2023 is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records in Award No.C3/006/2021 dated 31.03.2022 on the file of the first respondent herein quash and consequently direct the respondents to acquire my property 1614.6 sq. ft., out of 3710 sq. ft., comprised in old Survey No.2650 Re-Survey No.2355/1 CC No.516, at Purasaivakkam Village, Purasaivakkam Taluk, Chennai District.

WP No.18943 of 2023 is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records in Form E dated 12.05.2023 on the file of the first respondent quash and consequently direct the respondents not to proceed further based on void Award No.C3/006/2021 dated 31.03.2022 on the file of the first respondent herein.

For Petitioner in both WPs : Mr.B.Manoharan

For Respondent-1 in both WPs : Mr..Arunkumar,
Additional Government
Pleader.

For Respondent-2 in both WPs : Ms.Rita Chandrasekar



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COMMON ORDER

The order passed by the Special District Revenue Officer (Land Acquisition), Chennai Metro Rail Limited in proceedings dated 12.05.2023 is sought to be quashed in these writ petitions and a direction is sought for against the respondents not to proceed further based on the Award No. C3/006/2021 dated 31.03.2022 on the file of the first respondent.

2. The petitioner states that he is the owner of the property at No.53, Strahans Road, Pattalam undivided share measuring 50% out of 3710 sq.ft., comprise in old Survey No.2650 Re-Survey No.2355/1 CC No.516, at Purasaivakkam, Purasaivakkam Taluk, Chennai District and purchased the same through a registered Sale Deed dated 09.06.1982 vide document No.1027 of 1982. The petitioner further states that the Award has been passed against the dead person Mr.Lakshmana Mudaliar and therefore, the Award itself is void.

3. It is contended that the Authorities cannot proceed based on the Award passed against the dead person and the petitioner during the



Award enquiry submitted all the relevant documents, which were not considered by the Authorities. Thus the Award itself is to be set aside and fresh proceedings are to be instituted by the Authorities for acquisition.

4. The learned counsel for the petitioner in this regard relied on the judgment of Hon'ble Division Bench this Court in the case of **Savithiriammal vs. State of Tamil Nadu [(2006) 3 MLJ 389]**. The said case was relating to the provisions of the Land Acquisition Act (Act 1 of 1894).

5. Relying on the abovesaid judgment, the learned counsel for the petitioner reiterated that “land acquisition proceedings initiated by issuance of notification in the name of a dead person are void ab initio”.

6. With reference to the above contentions and the judgment relied on by the petitioner, the learned Additional Government Pleader, appearing on behalf of the first respondent in both these writ petitions, relied on the counter-affidavit filed by the first respondent, more specifically, in paragraphs 12 and 13 read as under:-



“12. I respectfully submit that with regard to the averment made in paragraph 8(v) and 8(vi) of the affidavit, the petitioner had not furnished any documents, evidences or proof to establish that he is having 50% of the un-divided share over the land parcel in Block 37, Re-Survey No.2355/85, Purasawalkam Town and Taluk. I respectfully submit that the petitioner had not furnished the copy of the alleged Sale Deed in which the fact of the demise of Thiru Lakshmana Mudaliar.

13. I respectfully submit that with regard to the averment made in paragraph 8(vii) of the affidavit, the petitioner and Thiru Karunakaran had appeared for the Award enquiry posted on 28.10.2021 and the latter had deposed that he had constructed house and shops in the undivided share of the land of Block 37, Re-Survey No.2355/85, Purasawalkam Town and Taluk without furnishing any records. I respectfully submit that the petitioner and Thiru Karunakaran claim rights over the land parcel in Block 37, Re-Survey No.2355/85, Purasawalkam Town and Taluk, the first respondent had come



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to the conclusion to deposit the compensation amount with regard to the acquisition of the land measuring 150 sq.mts/1,614.6 square feet under Civil Deposit on the file of the Hon'ble Principal City Civil Court, Chennai. Accordingly, the Special Tahsildar (LA) had remitted the compensation amount under the Court Deposit on 28.12.2022.”

In view of the above counter-affidavit filed by the first respondent, the judgment, cited supra, is of no avail to the petitioner.

7. The learned counsel appearing on behalf of the second respondent brought to the notice of this Court that already LAOP No.55 of 2023 has been instituted on 05.04.2023 and the petitioner is at liberty to raise his objections before the LAOP Court for redressal of his grievances, if any exists.

8. In this regard, it is stated in the counter-affidavit filed by the first respondent that the Special Tahsildar (Land Acquisition), Chennai Metro Rail Limited in Notice No.LAOP No.55 of 2023 dated 31.03.2023, had communicated the details of the remittance of the compensation amount



in the account of the Principal City Civil Court, Chennai and the Land Acquisition Original Petition numbered in this regard as 55 of 2023, will be heard on 13.04.2023. The said notice was served on Tvl.Karunakaran and Prabhakaran on 05.04.2023 and the said case was listed for hearing on 18.07.2023.

9. Pertinently, the Land Acquisition Officers are proceeding on the basis of the revenue records available. At the time of initiation of acquisition proceedings, the Authorities may not be aware of the death of the persons and they issued notification based on the revenue records.

10. If at all the death of the person has been brought to the notice of the Authorities or if they come to know about the death of a person, thereafter, appropriate actions are to be initiated to issue further notice to the legal heirs of the death person.

11. The Competent Authorities cannot be expected to conduct an enquiry at the time of issuance of acquisition notification regarding the death of a person or otherwise. If at all a person claiming that the owner of



the property has died, then the person claiming right over the property has to furnish the relevant documents to establish his rights.

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12. The documents submitted by the interested persons are to be scrutinised by the Competent Authorities for the purpose of grant of compensation in the manner known to law.

13. In these cases, no doubt, an Award was passed against the person, who is no more now. However, subsequently the Authorities have initiated all further actions and notice was issued to the petitioner in LAOP proceedings and that apart, Chennai Metro Rail Limited has already taken possession of the subject property and the Project is under progress.

14. The Metro Rail Project is of public importance and on these technical grounds, the Courts if stalled such projects, it will result in huge financial loss to the Corporation as well as to the Government. Certain technical defects if occurred unintentionally should be rectified and the compensation as admissible is to be paid to the eligible persons.



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15. If at all any grievance exists, the aggrieved persons may approach the Forum for enhancement of compensation or for other reliefs for which they are entitled. However, stalling of the Project would cause greater prejudice to the interest of the public.

16. This Court is of the considered opinion that such technical errors cannot be a ground to stall the Project or to quash the proceedings, which would cause irreparable loss to the development of the Projects, which all are of public importance.

17. If at all any error committed in this aspects are always condonable and the same cannot be construed as uncondonable.

18. This Court is of the considered opinion that the petitioner has already entered appearance in the LAOP proceedings and therefore, he is at liberty to establish his right or seek enhancement or otherwise, as the case may be, for the purpose of redressal of his grievances, if any exists.



19. With the above observations, the writ petitions stand disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

30-06-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
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To

1.The Special District Revenue Official (LA),
CMRL Administrative Office,
Anna Salai,
Nandanam,
Chennai-600 035.

2.The Special District Revenue Official (LA),
CMRL Administrative Office,
Koyambedu,
Chennai-600 107.

2.The Managing Director,
Chennai Metro Rail Limited,
Metros, 327, Anna Salai,
Nandanam,
Chennai-600 035.



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S.M.SUBRAMANIAM, J.

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