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WP No.17634 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28-07-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.17634 of 2022

G.Ramesh

... Petitioner

Vs.

- 1.The Competent Authority and Special District
Revenue Officer,
National Highways (Land Acquisition),
Bengaluru – Chennai Expressway Project,
Sathuvachari,
Vellore-9.
- 2.The Special Tahsildar,
National Highways (Land Acquisition),
Bengaluru – Chennai Expressway Project,
Sathuvachari,
Vellore-9.
- 3.The Project Director,
National Highways Authority of India,
PIU-Kancheepuram,
7/16, Govindarajan Street,
Tambaram West,
Chennai-600 045.



[R-3 impleaded vide order of Court dated
28.07.2023 made in WMP No.30399 of 2022
in WP No.17634 of 2022]

... Respondents

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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent and quash the impugned proceedings dated 14.05.2022 in Th.Ne.Ni.E/P.Ch.V/C.Ma.Va.A/A2/71/2022 of the first respondent rejecting the petitioner's claim for compensation as the same is ultra virus, unconstitutional, perverse, arbitrary, biased, illegal and against all principles of law and natural justice and consequently direct the respondents to pay due statutory compensation payable to the petitioner in respect of his acquired lands forming part of roads/streets or any other common areas of Annai Nagar Layout situate in S.No.18/1A1, 18/1A1B, 18/22, 18/3A1B, 18/2A1 and 18/2A1B, Gonvidacheri Village, Wallaja Taluk, Vellore District acquired by the respondents for Bangalore-Chennai Expressway Project.

For Petitioner : Mr.N.R.Anantha Rama Krishnan

For Respondents-1 and 2 : Mr.P.Kumaresan,
Additional Advocate General
Assisted by Mr.T.Venkatesh Kumar,
Special Government Pleader.

For Respondent-3 : Mrt.Su.Srinivasan



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ORDER

The order dated 14.05.2022 passed by the first respondent-Special District Revenue Officer (Land Acquisition), is under challenge in the present writ petition.

2. The acquisition proceedings initiated and completed in respect of the subject properties, are not in dispute in the present writ petition.

3. The petitioner submitted a representation on 06.12.2021 to the District Revenue Officer to settle the compensation in respect of the portion of the land gifted by him to the Local Authority for the purpose of formation of road in the layout.

4. At the time of approval of layout, the lands for the formation of road are to be gifted to the Local Authority and in accordance with the provisions of the Town and Country Planning Act. The petitioner gifted a



portion of the land for formation of road in the layout in favour of the Commissioner, Sholinghur Panchayat Union by executing a gift in favour of the Commissioner, Sholinghur Panchayat Union. The petitioner is ceased to be the owner of the portion of the land, which has been gifted in favour of the Local Authority.

5. The petitioner has taken a stand that the land gifted by him was subsequently acquired and therefore, the gift lost its relevance and thus he is entitled entitled for the compensation for the portion of the land gifted by him to the Local Authority.

6. The learned counsel for the petitioner relied upon the judgment of this Court in the case of **S. Rajasekaran vs. District Collector, Kancheepuram District [(2012) 2 CTC 324]**, wherein in paragraphs 18 and 19, it has been held as under:-

“18. In the present case, the lands before acquisition itself were in approved layout and certain areas have been shown as open space for public use. But, however when the acquisition of land took place for industrial scheme conceived



by the SIPCOT, the purpose of use of the land got completely changed and even the areas which were reserved for open space is no longer relevant. The SIPCOT sold the lands to the private party in respect of the entire extent. Those lands were no longer kept as open space meant for a park or a street. After obtaining the land cost from the private companies, necessary compensation will have to be paid to the real owners.

19. In the present case, the local authorities for whose cause the Respondent SIPCOT is pleading, have not become owners of the land either by way of Gift Deed or by way of any operation of law. On the other hand, admittedly no Gift Deed has been executed in favour of the local body. Even otherwise, as held by the Supreme Court in catena of decisions referred to above, the local body does not become the owner of the land and it is merely a custodian. Further the Town and Country Planning Act is not an Act providing for land acquisition. Hence, the contentions raised by the Respondents cannot be countenanced by this Court.”



7. The learned counsel for the petitioner states that the said judgment has been confirmed by the Division Bench of this Court in the case of **District Collector vs. S. Rajasekaran [2015 (3) LW 626]**.

Therefore, even after gifting of the property under the Town and Country Planning Act, for formation of road in favour of the Local Authority, the previous owner can claim compensation if such lands are acquired for public purposes.

8. The learned Additional Advocate General strenuously objected the said contentions raised on behalf of the writ petitioner by stating that after gifting of the portion of the land for formation of road. At the time of approval of layout by the Director of Town and Country Planning, the petitioner ceased to be the owner of the portion of the land and therefore, he is not entitled to claim compensation.

9. The Special District Revenue Officer in his counter-affidavit stated that award proceedings were passed on 08.12.2017 and regarding sale of plot in the layout, the purchasers were not only purchased the plots but also the right to use the piece of land shown as road and the sale



consideration of the plot would also invoke the component of right to use the road portion. The land portion shown in the private layout developed by the land owner or Power Agent is meant for all persons, who purchased the plots in the layout. Considering these vital points, the plot value in dry land was fixed at Rs.1,185/- per sq.meter than the dry land value of Rs.255/- per sq.meter. Hence, it has to be dedicated only for the purpose of road and it should have been handed over by the land owner or Power Agent to the Local Body. Accordingly, Mr.S.V.Kumar, Power Agent of Annamalai and Amsa Group had gifted the road portions in the layout in favour of Govindacheri Village Panchayat as per Gift Deed bearing No.4698 of 2018 dated 20.07.2018.

10. The writ petitioner got the acquired property of Annamalai and Amsa Group at meagre sum of Rs.12,03,500/- with some motive from the Power Agents Mr.Venkatesan and Mr.Kumar vide Sale Deeds 2695 of 2019 dated 14.09.2019 and 4094 of 2019 dated 10.07.2019 respectively.



11. With the strength of the abovesaid two documents, the writ petitioner Mr.G.Ramesh got the plots values plus all statutory benefits of the said land owners amounting to Rs.55,49,192/- on 31.08.2020 from the Special District Revenue Officer (Land Acquisition), Vellore. In addition to the said sum, the writ petitioner, who is not an Awardee, claims compensation for the road portion in the present writ petition with some motive.

12. The roads in the layout had been vested to the Village Panchayat in the year 2018 as stated above. The compensation, if any, payable to the roads of the layout by the Project Director, National Highway Authorities, it has to be paid to the Commissioner, Panchayat Union, Sholinghur.

13. The Awardees or Power Agents or the writ petitioner are not eligible to get compensation, if any of the acquired public road, since higher land value fixed for the house site plots, taking into consideration of the road facilities, were paid to the land owners. Hence, no separate value is eligible for the Awardees of plot purchasers or land owners or their Power



Agents.

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14. The facts and circumstances, as narrated in the counter-affidavit, would be sufficient enough to form an inevitable conclusion that the petitioner purchased the land after acquisition proceedings and after gifting of the road as per the layout in favour of the Local Authority. Even the motive has been attributed against the writ petitioner for claiming additional compensation in respect of the gifted property in favour of the Local Authority. Thus the judgment cited by the petitioner is of no avail as he is not considered as an Awardee even by the Authority Competent based on the original acquisition proceedings, since the petitioner was a subsequent purchaser.

15. For all these reasons, this Court do not find any acceptable reason for considering the relief as such sought for in the present writ petition.



16. Accordingly, the present writ petition stands dismissed.

However, there shall be no order as to costs.

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28-07-2023

Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

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S.M.SUBRAMANIAM, J.

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