



WEB COPY

WP No.21365 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21-07-2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.21365 of 2023

And

WMP Nos.20769 and 20770 of 2023

K.Ganesh

... Petitioner

Vs.

- 1.The District Collector,
Chennai District,
Singaravelavar Maligai,
Chennai-600 001.
- 2.The Special District Revenue Officer
(Land Acquisition),
Chennai Metro Rail Limited,
Koyambedu,
Chennai-600 107.
- 3.The Special District Revenue Officer
(Land Acquisition),
Chennai Metro Rail Limited,
Nandanam,
Chennai-600 035.



4. The Executive Officer,
Sri Kabaleeswarar Temple,
Mylapore,
Chennai-600 004.

5. The Commissioner,
HR&CE,
Nungambakkam High Road,
Chennai-600 034.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, directing the respondents to call for the records of the second respondent letter Na.Ka.No.008/N.A/C.M.R.S/2020 dated 17.10.2022 to quash and consequently dispose the petitioner's representation dated 25.05.2023.

For Petitioner : Mr.Mahaveer Shavaji for
Mr.P.Venkateshan.

For Respondents-1 and 2: Mr.T.Venkatesh Kumar,
Special Government Pleader.

For Respondent-3 : Ms.Rita Chandrasekar

For Respondents-4 and 5: Mr.N.R.R.Arun Natarajan,
Special Government Pleader
(HR&CE).

ORDER

The final notice issued by the District Revenue Officer (Land



Acquisition), Chennai Metro Rail Project in proceedings dated 17.10.2022, is under challenge in the present writ petition.

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2. Pertinently, the impugned final notice for enquiry has not been issued to the writ petitioner, who is admittedly a tenant, in occupation of the subject premises, sought to be acquired for the Chennai Metro Rail Project. The notice, which is under challenge, has been communicated to the owner of the property i.e., Kabaleeswarar Temple.

3. Even as per the petitioner, he is not the owner and he is in occupation of the subject premises, which is sought to be acquired for Chennai Metro Rail Project. The petitioner states that he paid an advance of Rs.1 lakh to the landlord and pay a monthly rent of Rs.5,000/-, which was increased to Rs.10,000/- subsequently. The petitioner further states that the property tax and other amenities are stand in the name of Janarthana Charitable Trust and the Trustee Mr.S.Balaji died on 05.05.2014.

4. The learned Special Government Pleader, appearing on behalf of the respondents 4 and 5, submitted the files to establish that the



subject property is belonging to the fourth respondent-Temple and the temple lands were acquired for the purpose of Chennai Metro Rail Project and the compensation amount was determined as Rs.42,15,89,646/- and the said amount has been already deposited in the Bank Account of the fourth respondent-Temple on 08.02.2023 itself.

5. The learned Special Government Pleader, appearing on behalf of the respondents 4 and 5, reiterated that the compensation amount has already been deposited in the Bank Account of the fourth respondent-temple and therefore, the petitioner and few other encroachers are attempting to disrupt the public project under the Chennai Metro Rail Project.

6. The learned counsel for the petitioner states that the petitioner is not an encroacher and he is a tenant under Janarthana Charitable Trust. However, the claim of the petitioner may be against the landlord and certainly in the present case, he cannot claim any right in respect of the acquisition proceedings or the compensation deposited in the Bank Account of the fourth respondent-Temple.



7. If at all the landlord has not refunded the advance amount or otherwise, the petitioner has to sue the landlord, but certainly has no locus to question the acquisition proceedings initiated against the land owners. Moreover, as per the records, the fourth respondent-Kabaleeswarar Temple is the owner of the property and the Land Acquisition Officer verified the said title of the temple and deposited the compensation in the Bank Account of the temple.

8. Therefore, the acquisition proceedings were finalised and if at all any dispute exists between the Janarthana Charitable Trust and the petitioner, it is for the petitioner to claim his right against the Trust concerned and certainly not against the temple or against the Land Acquisition Officer or the Chennai Metro Rail Limited. The process of acquisition had already been concluded and the compensation determined was paid to the temple.

9. All the persons, who all are in illegal occupation of the acquired land are liable to be evicted for the purpose of completing the



Chennai Metro Rail Project. The Public Welfare Project cannot be stalled unnecessarily, which would cause irreparable financial loss to the State Exchequer. By investing huge amount, the Government is providing public infrastructural facilities for the benefit of the people and Chennai Metro Rail Project, being a prime Project, cannot be stalled on account of encroachments or disputes between the private parties.

10. All such disputes are to be resolved in the manner known to law. But the encroachments or occupation in the acquired lands are to be evicted, enabling the Authorities to progress the Chennai Metro Rail Project without any hindrance and complete the Project as per the schedule for the benefit of the people. In the event of delay, there is a possibility for cost escalation, which will affect the public interest as well as the public money.

11. The learned counsel for the petitioner brought to the notice of this Court that the petitioner has instituted civil suit for permanent injunction against the temple as well as the Trust and the City Civil Court granted injunction in the year 2015 in OS No.2936 of 2015.



12. The Civil Suit initiated between the Private Trust and the petitioner will not be a bar for the Government to acquire the subject property for public projects. The injunction granted by the Civil Court mainly on the ground that the petitioner should not be evicted without following the due process of law. Therefore, such injunction granted by the Civil Court stand in the way of the Government from acquiring the land, more specifically, for Chennai Metro Rail Limited (CMRL) projects. Therefore, the petitioner cannot take any advantage of the injunction granted by the Civil Court in a Suit, wherein the Government or the Metro Rail project, is not a party.

13. The learned Special Government Pleader, appearing on behalf of the respondents 4 and 5, brought to the notice of this Court that eviction proceedings are initiated under Section 78 of the Hindu Religious and Charitable Endowments Act, 1959, there is no impediment for the Temple Authorities to evict the encroachers from the temple properties by following the procedures as contemplated under the Hindu Religious and Charitable Endowments Act, 1959. More-so, the land now has been acquired and the compensation has been deposited. Thus the petitioner is to



be evicted either by the Government Authorities or by the Temple Authorities and hand over the same for the development of Chennai Metro Rail Project.

14. Therefore, this Court do not find any infirmity in respect of order passed by the second respondent in proceedings dated 17.10.2022, as the petitioner is not the addressee in the notice nor owner of the property. Accordingly, the petitioner is directed to evict the property with immediate effect.

15. With the above observations, the present writ petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are also dismissed.

21-07-2023

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



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S.M.SUBRAMANIAM, J.

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