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WP No.22810 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14-09-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.22810 of 2019

And

WMP No.22391 of 2019

M.Karunakaran

... Petitioner

Vs.

1.State of Tamil Nadu,
Represented by The Chief Secretary,
St. Fort George,
Chennai-600 009.

2.The Commissioner,
Land Administration,
Ezhilagam,
Chennai-600 005.

3.The District Collector,
Thiruvallur.

4.The Revenue Divisional Officer,
Maduravoyal Taluk,
Thiruvallur.



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5.The Tahsildar,
Maduravoyal Taluk,
Chennai-600 116.

6.Hussainy Trust (Madrasa I Hussainny
Yatteem Khanna Industrial Unit
including for orphanage),
210 Mount Road,
Chennai-600 006.

7.The Sub Registrar,
Alandur.

8.The Joint Sub Registrar,
Saidapet.

9.M/s.Faridha Leatherware Private Ltd.,
No.936, Periyar EVR High Road,
Chennai-600 084.

10.M/s.Delta Shoes Pvt Ltd.,
No.936, Periyar EVR High Road,
Chennai-600 084.

11.M/s.Farida Holdings Private Ltd.,
No.936, Periyar EVR High Road,
Chennai-600 084.

12.M/s.Rivera Shoes Private Ltd.,
No.936, Periyar EVR High Road,
Chennai-600 084.

13.India Shoes Exports Private Ltd.,
No.151/4, Mount Poonamallee Road,
Ramapuram,
Chennai-600 089.

... Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, pertaining to the Award No.3 dated 29.12.1947, passed against Madhavan Naicker, the father of the petitioner herein, and others under Land Acquisition Act, 1894 by the fourth respondent herein, by directing the third respondent to forfeit the property comprised in S.No.153/1/2/3/4 and 158 as it is not used for public purpose within the statutory limit by the sixth respondent, by declaring the sale transfer executed by the sixth respondent, registered in the office of the seventh respondent bearing Document No.3847/1992, 3848/1992, 3849/1992, 3850/1992 and Document No.676/2000, 677/2000 registered in the office of the eighth respondent, executed by ninth and tenth respondents respectively, pertaining to the acquired property, comprised in S.No.153/3 and 153/4 Nanja and Punja lands located at Ramapuram Village, Maduravoyal Taluk, Thiruvallur District as null and void, with further direction to reconvey the S.No.153/1 admeasuring about 95 cents, Nanja and Punja lands located at Ramapuram Village, Maduravoyal Taluk, Thiruvallur District to the petitioner herein being the person interested.

For Petitioner : Mr.S.Makesh

For Respondents-1 to 5,
7 and 8 : Mr.R.Ramanlaal,
Additional Advocate General-IV,
Assisted by Mr.T.Arunkumar,
Additional Government Pleader.

For Respondent-6 : Mr.Jayesh B.Dolia,
Senior Counsel for M/s.Aiyar and
Dolia



For Respondents-10, 11
and 13

: Mr.K.M.Vijayan,
Senior Counsel for
Mr.N.V.N.Margandeyan

For Respondents-9 and
12

: Not Ready in Notice

ORDER

The writ on hand has been instituted pertaining to the Award No.3 dated 29.12.1947, passed against Madhavan Naicker, the father of the petitioner herein, and others under Land Acquisition Act, 1894 by the fourth respondent herein, by directing the third respondent to forfeit the property comprised in S.No.153/1/2/3/4 and 158 as it is not used for public purpose within the statutory limit by the sixth respondent, by declaring the sale transfer executed by the sixth respondent, registered in the office of the seventh respondent bearing Document No.3847/1992, 3848/1992, 3849/1992, 3850/1992 and Document No.676/2000, 677/2000 registered in the office of the eighth respondent, executed by ninth and tenth respondents respectively, pertaining to the acquired property, comprised in S.No.153/3 and 153/4 Nanja and Punja lands located at Ramapuram Village,



Maduravoyal Taluk, Thiruvallur District as null and void, with further direction to reconvey the S.No.153/1 admeasuring about 95 cents, Nanja and Punja lands located at Ramapuram Village, Maduravoyal Taluk, Thiruvallur District to the petitioner herein being the person interested.

2. The grievance of the writ petitioner is that the properties belonged to his family was acquired for public purposes by invoking the provisions of the Land Acquisition Act, 1894. The acquired lands were handed over for the purpose of establishing Educational Institution, Industrial Training Institute, Orphanage and School.

3. It is not in dispute between the parties that the lands were acquired for public purposes and for the purpose of establishing Educational Institution for the welfare of the people of that locality.

4. The present writ petition has been instituted after several years from the date of acquisition. The lands were acquired long back and the petitioner being the legal heir of the erstwhile landowner now come out with certain serious allegations that the lands acquired and handed over for



public purposes are abused by the Society and the Trust created by the Society/sixth respondent.

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5. The learned Senior Counsel appearing on behalf of the respondents 10, 11 and 13 raised serious objections mainly on the ground that enormous delay in filing the present writ petition, cannot be entertained. That apart, the lands acquired are being utilised for educational purposes and to maintain orphanage. Thus, there is no violation of the purpose for which it was acquired and handed over to the sixth respondent.

6. It is contended that the petitioner, as of now, has no right in respect of the acquired property and being utilised for public purposes and therefore, the present writ petition is to be rejected.

7. The learned Senior Counsel appearing on behalf of the sixth respondent-Trust made a submission that Orphanage and Educational Institutions are running in the subject property and a portion of the building has been utilised for other purposes. However, the said lands are not sold in favour of any private persons. Therefore, the complaint raised by the



petitioner is false and thus the present writ petition is to be rejected.

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8. Since the respective learned Senior Counsels appearing on behalf of respondents 6, 10, 11 and 13 raised serious objections relating to the long delay in filing the present writ petition, this Court directed the Official respondents to conduct Field Inspection and submit Status Report, which has been filed by the learned Additional Advocate General appearing on behalf of respondents 1 to 5, 7 and 8.

9. The learned counsel for the petitioner mainly contended that amended Sections 16-A, 16-B and 48-B of the Land Acquisition Act, 1894, pave way for the petitioner for raising complaint against violations and therefore, the complaint filed by the petitioner is to be enquired into.

10. Verification of revenue records, documents and evidences are required in respect of the complaint raised by the petitioner, which is of serious in nature. High Court cannot conduct a Roving Enquiry in writ proceedings of this nature.



11. The present writ petition has been filed seeking Mandamus and therefore, enquiry fact finding is required for the purpose of forming an opinion. Fact finding based on the documents and evidences are of greater assistance to the High Court for exercise of power of Judicial Review under Article 226 of the Constitution of India.

12. The learned Additional Advocate General appearing on behalf of the State, made a submission that as per the Status Report, there are some discrepancies, which all are to be enquired into.

13. The Status Report filed by the fifth respondent-Tahsildar, wherein in paragraphs 14 to 16, it has been stated as under:-

“14. It is respectfully submitted further, it is found that the said company India Shoe Exports Private Limited is functioning in S.Nos.153/4B, 153/4C, 153/3B, 153/3C, 153/3D and 153/3E of Ramapuram Village. Further in S.Nos.153/1, 153/2, 153/3A, 153/4A a Multiplex Theatre with 9 Halls is under construction. The said construction is being carried out jointly by Hussainy Trust and A.S.V.



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Enterprises.

15. It is further respectfully submitted that in the South West portion of S.No.158 an extent of 72.0 Ares of land from and out of the 292.0 Ares is found acquired by the Chennai Metro Rail Limited in Mount Poonamallee Road. Hussainy is now working as the Headmaster of Hussainy Higher Secondary School. On the Western side of this land, the Chennai Metro Rail construction work is under progress. In the remaining land in S.No.157, there is a compound wall together with the school building. In S.No.158, except the portion of land under construction by CMRL, the remaining land is with bushes.

16. It is respectfully submitted that as regards the properties alleged to have been sold in the aforesaid survey fields a perusal of the records shows that the following sales have taken place in the survey numbers:

Document Number	Survey Number	Extent	Executant	Claimant
3847/1992 dated 16.12.1992	153/3	3488 s.ft.	The Hussainy Trust	M/s.Farida Holdings Private Limited
3848/1992	153/3	50.0 cents	The Hussainy Trust	M/s.Delta Shoes



Document Number	Survey Number	Extent	Executant	Claimant
dated 16.12.1992 Sale Deed	153/4			Private Limited
3849/1992 dated 16.12.1992 Sale Deed	153/3	21800 s.ft	The Hussainy Trust	M/s.Farida Holdings Private Limited
3850/1992 dated 16.12.1992 Sale Deed	153/3	21800 s.ft.	The Hussainy Trust	Chennai Rivera Shoes Pvt. Limited
240/1999 dated 24.02.1999 Sale Deed	153/3, 153/3E	50.0 cents	M/s.Farida Holdings Private Limited	M/s.India Shoes Exports Private Limited
777/1999 dated 24.06.1999 Sale Deed	153/3 153/3C 153/3E	50.0 cents	Chennai Rivera Shoes Private Limited	M/s.India Shoes Exports Private Limited
676/2000 dated 29.03.2000 Sale Deed	151/4 153/3 153/3D 153/4 153/4C	14.0 cents	M/s.Delta Shoes Private Limited	M/s.India Shoes Exports Private Limited
677/2000 dated 29.03.2000 Sale Deed	153/3 153/3B 163/3D 153/4 153/4B 153/4C	8.0 cents 42.0 cents	M/s.Farida Holdings Private Limited	M/s.India Shoes Exports Private Limited
1134/2017 dated 13.06.2017 Power Document	153/1 153/2 153/3A 153/4A	4.40 acres	The Hussainy Trust	M/s.A.S.V. Constructions Private Limited

14. The learned Senior Counsel, appearing on behalf of the sixth respondent, clarified that there is no proposal for construction of a Cinema Theatre and it is a commercial building, more-specifically for



Software Industry.

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15. The learned counsel appearing on behalf of the petitioner raised an objection by stating that the Commercial/IT purposes are for personal gains.

16. This Court is of the considered view that serious allegations are raised by the petitioner. The Status Report filed by the State reveals that certain discrepancies are identified by the Authorities, who have conducted Field Inspection in respect of the subject properties. Thus an elaborate enquiry by affording opportunities to all the parties concerned, are imminent in the interest of justice.

17. The petitioner has mainly raised an issue that the land acquired from a private owner has been now abused for commercial purposes by the private persons. The contesting respondents are defending on the ground that there is no delay and the property has not been abused.

18. The learned Additional Advocate General, appearing on



behalf of the respondents 1 to 5, 7 and 8, based on the Status Report states that there are certain discrepancies. Thus it is preferable that the Commissioner of Land Administration, Chennai shall conduct an enquiry for the purpose of ascertaining the entire facts and circumstances and to pass appropriate orders by affording opportunities to all the parties concerned.

19. In view of the facts and circumstances, the second respondent-Commissioner of Land Administration, Ezhilagam, Chepauk, Chennai-600 005 is directed to conduct an enquiry by affording opportunities to all the parties concerned and pass appropriate orders on merits and in accordance with law. If any illegality, irregularity, violations of law are noticed, then all further actions are directed to be initiated in the manner known to law. The second respondent-Commissioner of Land Administration, Ezhilagam, Chepauk, Chennai-600 005 is directed to complete the abovesaid exercise within a period of twelve weeks from the date of receipt of a copy of this order.



20. With the above observations, the present writ petition stands disposed of. However, there shall be no order as to costs.

Consequently, the connected miscellaneous petition is closed.

14-09-2023

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

1.The Chief Secretary,
State of Tamil Nadu,
St. Fort George,
Chennai-600 009.

2.The Commissioner,
Land Administration,
Ezhilagam,
Chennai-600 005.

3.The District Collector,
Thiruvallur.

4.The Revenue Divisional Officer,
Maduravoyal Taluk,
Thiruvallur.

S.M.SUBRAMANIAM, J.



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5.The Tahsildar,
Maduravoyal Taluk,
Chennai-600 116.

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