



C.R.P.(PD)No.2595 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD)No.2595 of 2023
and C.M.P.No.16066 of 2023

K.R.Jagatheeswaran

.. Petitioner

Vs.

1.P.Elamurugu

(Represented by his General Power Agent
D.Jaya Prakash)

2.The Special Tahsildhar (LA)
MRTS Phase II Extension
Thirumayilai Railway Station
Mylapore, Chennai-600 004.

3.The Secretary
Balaji Nagar Government Employees
Welfare and House Site Society
Adambakkam, Chennai-600 088.

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 30.06.2023 in I.A.No.7 of 2023 in L.A.O.P.No.1601 of 2021 on the file of the Sub Court, Alandur.

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For Petitioner : Mr.T.Ramachandran

For R1 : Mr. Lieutenant Colonel Ganesan S.

ORDER

Heard the learned counsel for the petitioner and the learned counsel for the 1st respondent. I have carefully gone through the records.

2. The revision has been presented by the 2nd claimant. The 1st respondent is the 1st claimant. The matter arises under the Land Acquisition Act. A reference was made in L.A.O.P.No.1601 of 2021 and it was taken on file by the learned Subordinate Judge at Alandur. In the said proceedings, a power of attorney deed was executed by the 1st claimant in favour of one D. Jaya Prakash. The said Jaya Prakash entered the witness box and deposed on behalf of Mr.P.Elamurugu, the 1st claimant.

3. Learned counsel for the 2nd claimant in the L.A.O.P. also commenced the cross-examination of the said power of attorney. Pending



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the cross-examination, the revision petitioner took out an application in I.A.No.7 of 2023 to eschew the evidence stating that a power of attorney cannot depose on matters, which he is not competent to speak. The said application was dismissed by the learned trial Judge stating that the evidence of power of attorney will be considered at the time of trial and whatever position of law that prevails as on the date will be applied to the said evidence. Aggrieved over the same, the present revision has been filed.

4. It is not in dispute that C.W.1 is the power of attorney of the 1st claimant. C.W.1 has entered the witness box and has deposed on behalf of the 1st claimant and he is under cross-examination. The objection is that the power of attorney cannot speak about the matters, which are not within his personal knowledge. The proceedings does not relate to any personal conflicts like matrimonial dispute or execution of a document within the personal knowledge of the 1st or the 2nd claimant. In the present case, it is an L.A.O.P. proceeding and in such proceeding, all the other



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Courts does is to arrive at a just and fair compensation for the lands acquired.

5. If the civil revision petitioner feels that the evidence of C.W.1 is of no use for arriving at just conclusion in the matter, it has to be argued at the time of final disposal. The ground of incompetency of witness is not a ground to eschew the evidence. It is one of marshaling of evidence, which can be done at the time of final disposal of the case. Therefore, I feel that the position of law laid down in paragraph No.5.4 of the impugned order dated 30.06.2023 is correct and it does not require any interference by this Court.

6. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

31.07.2023

Index:Yes/No
Speaking Order :Yes/No
Neutral Citation:Yes/No
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To
WEB COPY

- 1.The Special Tahsildhar (LA)
MRTS Phase II Extension
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Mylapore, Chennai-600 004.
2. The Subordinate Judge, Alandur.



WEB COPY



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V.LAKSHMINARAYANAN,J.

Kj

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