



W.P.No.30387 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2023

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.30387 of 2017

R.K.Dastur

... Petitioner

versus

1.The Chief Secretary,
The Tamil Nadu State Government,
St.George Fort,
Chennai – 600 009.

2.The Chairman,
Tamil Nadu Electricity Board,
No.800, Anna Salai,
Chennai – 600 002.

3.The Superintending Engineer,
Tamil Nadu Electricity Board,
Anna Nagar at Tirumangalam,
Chennai – 600 040.

.... Respondents

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing respondents 2 and 3 forbearing from proceedings further to make further structures and shed in the property measuring to an extent of 400 sq.ft comprised in R.S.No.533/20 bearing Door No.19, Block No.19, Wheat Croft Road, Nungambakkam, Chennai –

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600 034 till the order is passed by the first respondent on the petitioner's representation dated 28.08.2013 as per the order of this Court made in W.P.No.30940 of 2007, dated 25.07.2013.

For Petitioner : Mr.M.Naraayanaswamy

For Respondents : Mr.V.Veluchamy
Additional Government Pleader for R1

Mr.Enock Anand
Standing Counsel for TNEB
for R2 and R3

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus, forbearing respondents 2 and 3 to put up superstructure on the subject property measuring to an extent of 400 sq.ft comprised in R.S.No.533/20 bearing Door No.19, Block No.19, Wheat Croft Road, Nungambakkam, Chennai – 600 034, till the disposal of the petitioner's representation dated 28.08.2013, as per the order of this Court made in W.P.No.30940 of 2007, dated 25.07.2013.

2. The learned counsel for the petitioner submitted that originally the



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subject property was acquired by then Madras State Electricity Board vide Acquisition Notification dated 27.05.1953, for the purpose of setting up electricity bill collecting Kiosk. Even after, passing of the Award, the purpose for which, the land was acquired, had not been utilised and the same is allowed to remain idle and unused, and hence, the petitioner earlier approached this Court in W.P.No.30940 of 2007 and sought for re-conveyance of the subject land. This Court by order dated 25.07.2013 directed the petitioner to give a fresh representation for re-conveyance to the first respondent and the first respondent was also directed to consider the same on merits and in accordance with law. While so, the petitioner submitted a fresh representation dated 28.08.2013 to the first respondent for re-conveyance of the subject land and also agreed to repay the Award amount. However, the first respondent has not considered the same till date.

3. The learned counsel further submitted that respondents 2 and 3, who have no authority to put up superstructure in the subject property until the order is passed on the petitioner's representation, are making arrangements to put up some temporary structures in the subject property.



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Hence, the petitioner is before this Court.

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4. The learned Standing Counsel appearing for respondents 2 and 3 by referring to the counter affidavit contended that already subject land was acquired by the Electricity Board in the year 1953, for public purpose. Pursuant to the order of this Court dated 25.07.2013 in W.P.No.30940 of 2007, the District Collector, Chennai District had addressed the second respondent herein to offer his remarks as to whether the land under reference is needed for the purpose of Kiosk Sub-Station or not. As such, the second respondent submitted his remarks, stating that the subject land is very much essential for TANGEDCO to establish a Fuse of Call Centre for Chetpet and Any Time Payment Machine for cash payment of current consumption charges by the consumers. He further contented that as admitted by the petitioner, a structure is erected in the subject property and it is utilised for the official purpose. As such, the subject property acquired is being beneficially utilised for public purpose, the petitioner cannot seek re-conveyance of the land.



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5. Heard both and perused the materials available on record.

6. The respondents 2 and 3 in their counter affidavit neither denied the receiving of representation from the petitioner nor disposed of the same.

7. It is seen that in W.P.No.30940 of 2007, this Court vide order dated 25.07.2013, directed the petitioner to give fresh representation to the first respondent for re-conveyance. The relevant paragraph of the said order reads as follows :

"4. After hearing the learned Additional Government Pleader for the respondents 1 to 3 and the learned counsel for the respondent No.4, this Court, without going to the merits of the matter, by taking note of the fact that the land of the petitioner in question, having been acquired in the year 1953, has not at all been utilised, as could be seen from the photograph produced before this Court, is inclined to direct the petitioner to make a fresh representation to the first respondent for re-conveyance by enclosing a copy of this order within a period of ten days from the date of receipt of a copy of this order and on receipt of such representation from the petitioner, the first



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respondent is further directed to consider the same on merits and pass appropriate orders in accordance with law within a period of eight weeks thereafter. The writ petition stands disposed of accordingly. Consequently, M.P.No.1 of 2007 is closed. No costs."

8. Pursuant to the direction of this Court in W.P.No.30940 of 2007, dated 25.07.2013, the petitioner has given fresh representation dated 28.08.2013 to the first respondent. Thereafter, the petitioner also sent several reminders to the authority concerned, however, there was no response from respondents 2 and 3. Hence, the petitioner has filed the present writ petition. In the counter affidavit respondents 2 and 3 have not denied about the receiving of the representation from the petitioner and nothing stated about the disposal, therefore, this Writ petition is liable to be allowed. Further, the present Writ Petition is pending from the year 2017, for only considering the representation of petitioner.

9. Considering the facts and circumstances and also considering the earlier order of this Court dated 25.07.2013, respondents 2 and 3 are



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directed to consider the representation of the petitioner dated 28.08.2013, within a period of one month from the date of receipt of a copy of this order.

Till then, respondents 2 and 3 are restraining from putting up superstructure in the subject property.

10. Accordingly, this writ petition is allowed with costs of Rs.25,000/- (Rupees twenty five thousand), which shall be paid by respondents 2 and 3. The first respondent is directed to recover the costs from the salary of the respondents 2 and 3 and credit the same in to the account of the Chief Justice Relief Fund (payable in Accounts Section of the High Court Registry).

24.11.2023

Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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P.VELMURUGAN, J.

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