



WEB COPY

WP No.28953 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03-08-2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.28953 of 2022

And

WMP Nos.28239 of 2022 and 5545 of 2023

Aditya Birla Housing Finance Ltd.,
3CDF, 3rd Floor,
Door No.560, 562, Century Plaza,
Anna Salai,
Teynampet,
Chennai-600 018.

Having Registered Office at:
Indian Rayon Compound,
Veraval,
Gujarat – 362 266.

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by its Secretary,
Planning Development and Special
Initiatives Department,
Secretariat,
Chennai-600 009.



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- 2.Chennai Metro Rail Limited,
(a Joint Venture of Government of India and
Government of Tamil Nadu),
Represented by its General Manager,
Admin Building,
CMRL Depot,
Poonamallee High Road,
Koyambedu,
Chennai-600 107.
- 3.The District Revenue Officer (Land Acquisition),
Chennai Metro Rail Scheme,
Koyambedu,
Chennai-600 107.
- 4.N.Prasanna Kumar
- 5.Mrs.Nathella Lakshmi Priya
- 6.N.Prapanna Kumar
- 7.Mrs.Nathella Radhika
- 8.Deputy Director,
Directorate of Enforcement,
Government of India,
3rd Floor, C-Block,
Murugesu Naicker Complex,
No.84, Greaves Road,
Thousand Lights,
Chennai-600 006.
- 9.The Branch Head,
State Bank of India,
Overseas Branch,
Mid Corporate Group,
86, Rajaji Salai,



Chennai-600 001.

[R-8 and R-9 impleaded vide order of Court dated 22.06.2023 made in WMP No.30602 of 2022 in WP No.28953 of 2022]

10.S.Palaniappan,
Liquidator for Nathella Sampath Jewellery
Private Limited,
B5, Patteswarar Park North Block,
Dr.Ramasamy Layout,
Velandipalayam,
Coimbatore-641 025.

[R-10 impleaded vide order of Court dated 22.06.2023 made in WMP No.16435 of 2023 in WP 28953 of 2022]

... Respondents

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 second respondent pertaining to the Award No.C4/007/2022 dated 22.09.2022, quash the same and consequently direct the second respondent to conduct a fresh enquiry and determine the compensation payable to the petitioner herein, being the Mortgagee under a Registered Mortgage Deed dated 28.04.2016, registered as Document Nos.1416/2016 and 1417/2016 and consequently pay the compensation payable to respondents 4 to 7 herein, in respect of all that piece and parcel of land comprised in R.S.No.1654/9, Mylapore Division bearing Old Door Nos.123 and 124, New No.110, Luz Church Road, Mylapore, Chennai-600 004, to the petitioner herein, in accordance to the Transfer of Property Act, SARFAESI Act and the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997. [Prayer amended vide order of Court dated 03.08.2023 made in WMP



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No.21276 of 2023 in WP No.28953 of 2022]

For Petitioner : Mr.C.Vigneswaran

For Respondents-1 and 3: Mr.D.Ravichander,
Special Government Pleader.

For Respondent-2 : Ms.Ritachandrasekar for
M/s.Aiyar and Dolia

For Respondents-4 to 7 : Mr.C.Arunkumar

For Respondent-9 : Mr.K.Chandrasekaran

For Respondent-10 : Ms.S.Indhumathi Ravi

ORDER

The amended relief sought for in the present writ petition is to call for the records of the second respondent pertaining to the Award No.C4/007/2022 dated 22.09.2022, quash the same and consequently direct the second respondent to conduct a fresh enquiry and determine the compensation payable to the petitioner herein, being the Mortgagee under a Registered Mortgage Deed dated 28.04.2016, registered as Document Nos.1416/2016 and 1417/2016 and consequently pay the compensation



payable to respondents 4 to 7 herein, in respect of all that piece and parcel of land comprised in R.S.No.1654/9, Mylapore Division bearing Old Door Nos.123 and 124, New No.110, Luz Church Road, Mylapore, Chennai-600 004, to the petitioner herein, in accordance to the Transfer of Property Act, SARFAESI Act and the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997.

2. With reference to the amended prayer, the learned counsel appearing on behalf of the tenth respondent-State Bank of India raised preliminary objection that the relief as such sought for in the present writ petition to settle the entire amount in favour of the writ petitioner is untenable, since the tenth respondent-State Bank of India holds primary charge over the property. They are the first charge holders. Thus the relief as such sought for cannot be considered by this Court.

3. The learned counsel appearing on behalf of the ninth respondent made a submission that the Company belonging to respondents 4 to 7 are under liquidation and the Official Liquidator has already initiated action.



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4. The present writ petition is emanated on account of the acquisition proceedings initiated by the second respondent-Chennai Metro Rail Limited for the development of Metro Rail Project in Chennai City.

5. It is not in dispute that the land belonging to respondents 4 to 7 were already acquired and the compensation determined by the Land Acquisition Officer had been deposited in the Court having jurisdiction. Further, it is not in dispute that a reference has already been made at the instance of the landowners and LAOP No.199 of 2022 is pending on the file of the learned Principal District Judge, City Civil Court at Chennai.

6. The learned counsel appearing on behalf of the petitioner mainly contended that they are holding first charge in respect of the loan borrowed by respondents 4 to 7 and therefore, they may be permitted to withdraw the compensation amount deposited by the Land Acquisition Officer.



7. It is not in dispute that a criminal case has been registered against the Company namely, M/s.Nathella Sampath Jewellery Private Limited (R-4 and R-6) and one Mr.Ranganath Gupta under the Prevention of Money Laundering Act and the Enforcement Directorate admittedly had attached the subject properties by invoking the provisions of Prevention of Money Laundering Act. The said case is also pending on the file of the Special Court for PMLA Cases at Chennai.

8. In this backdrop, the question arises whether the compensation amount deposited is to be disbursed in favour of the writ petitioner. When more than one claims are made in respect of the compensation amount deposited by the Land Acquisition Officer in lieu of acquisition of lands belonging to respondents 4 and 7, the High Court in writ proceedings cannot issue any direction to settle the compensation amount only in favour of the writ petitioner.

9. The learned counsel appearing on behalf of the second respondent-Chennai Metro Rail Limited made a submission that the subject lands were acquired and the Project is in progress and Award passed and the



compensation amount of Rs.89,12,16,998/- has been deposited. In this context, it is relevant to consider Section 8 of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997. Section 8 of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 contemplates 'Reference to Court'. Sub Section (1) to Section 8 of the Act, enumerates “any person aggrieved by the decision of the Collector or the officer to whom the case was transferred, determining the amount may, within sixty days from the date of such decision, in so far as it affects him by application to the Collector or the officer to whom the case was transferred, require that the matter be referred by him for the determination of the Court as defined in the Land Acquisition Act, 1894 (Central Act I of 1894) and when any such application is made, the provisions of Part III of the said Act shall *mutatis mutandis* apply to further proceedings in respect thereof.”

10. With reference to the above provisions of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997, any person aggrieved by the decision of the Collector or the Officer is entitled to make an application to the Collector or the Officer for making reference.



11. In the present case, a reference has already been made in LAOP No.199 of 2022, which is pending on the file of the Principal District Judge Court at Chennai. The facts placed before this Court reveals that the disputed facts exist between the parties.

12. As far as the second respondent-Chennai Metro Rail Limited is concerned, they have already deposited the compensation amount and they are proceeding with the project, since possession of the property has already been taken. Thus, the second respondent-Chennai Metro Rail Limited has no role to play as of now and it is between the other parties. The issues are to be adjudicated and resolved and the rights and entitlements are to be determined by the Competent Court of Law.

13. In view of the complex nature of facts and circumstances, it would be appropriate if all the parties are relegated to approach the Principal District Court at Chennai in the pending LAOP No.199 of 2022 for the purpose of establishing their rights, enabling the Court to decide and disburse the compensation amount already deposited by the second



respondent-Chennai Metro Rail Limited. Thus the petitioner and other parties, who all are claiming their rights are at liberty to approach the Court concerned for the purpose of establishing their case.

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

03-08-2023

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

1. The Secretary,
Government of Tamil Nadu,
Planning Development and Special
Initiatives Department,
Secretariat,
Chennai-600 009.
2. Chennai Metro Rail Limited,
(a Joint Venture of Government of India and
Government of Tamil Nadu),
Represented by its General Manager,
Admin Building,
CMRL Depot, Poonamallee High Road,
Koyambedu, Chennai-600 107.
3. The District Revenue Officer (Land Acquisition),
Chennai Metro Rail Scheme,
Koyambedu,
Chennai-600 107.
4. The Deputy Director,
Directorate of Enforcement,
Government of India,
3rd Floor, C-Block,
Murugesu Naicker Complex,
No.84, Greaves Road,
Thousand Lights,
Chennai-600 006.
9. The Branch Head,
State Bank of India,
Overseas Branch,
Mid Corporate Group,
86, Rajaji Salai,
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S.M.SUBRAMANIAM, J.

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