



W.P.No.10411 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2024

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.10411 of 2022

Mrs.EssaniChordia

.. Petitioner

Vs

- 1.The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai – 3.
- 2.The Executive Engineer,
Zone-III (Madhavaram),
Greater Chennai Corporation,
Chennai – 60.
- 3.The Assistant Engineer,
Bridges Department,
Rippon Building Complex,
Chennai – 3.
- 4.The Revenue Divisional Officer,
North Chennai Revenue District,
Tondiarpet, Chennai – 81.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India seeking for issuance of a writ of certiorari to call for the records in Z.O.III.C.No.5147/2020, dated 11.04.2022, and quash the same as illegal, incompetent and wholly without jurisdiction.



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For Petitioner : Mr.V.Raghavachari, Sr. Counsel
For R1 to R3 : Mr.A.S.Ragul Adhithiya
for Mrs.P.T.Ramadevi, Standing Counsel
For R4 : Mr.M.S.Arasa Kumar

ORDER

The writ petition has been filed challenging the order passed by the second respondent dated 11.04.2022, thereby revoked the planning permission and building permit dated 23.03.2020 as per the provisions of Section 54 of the Tamil Nadu Town and Country Planning Act, 1971, and Section 365(4) of the Chennai City Municipal Corporation Act, 1919.

2. The land comprised in Survey No.231/13, Plot No.21, Vadaperumbakkam, Puzhal Village, Madhavaram Circle, Thiruvallur District, was originally purchased by the petitioner's husband. While being so, an advertisement was issued by Bharat Petroleum Corporation Limited (BPCL) dated 25.11.2018 calling for application for distribution of retail outlet dealership. In order to apply for the same, the petitioner



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made an application on 24.04.2018 to the first respondent seeking for regularization of the said property. Accordingly, sanction was accorded on 27.12.2018 and thereafter, the petitioner had also paid a sum of Rs.6,70,000/- on 24.01.2019.

3. After getting necessary approval from the first respondent, the petitioner submitted application seeking for dealership of fuel station outlet. The said application was scrutinized and the BPCL issued order sanctioning to run a fuel station outlet in the name of BPCL by their communication dated 18.10.2019. Subsequently, the petitioner submitted application to the police authorities on 22.10.2019 seeking for “No Objection Certificate” to run a fuel station by annexing necessary documents. The petitioner was also issued with “No Objection Certificate” on 24.01.2020 to run a fuel station.

4. While being so, some unknown persons entered into the petrol bunk and had made certain markings on the wall in order to construct bridge. Therefore, the petitioner submitted a representation dated 24.10.2020 to the respondents, for which, a reply dated 04.03.2021 was issued to him stating that certain lands have been identified for



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acquisition for construction of bridge. Insofar as the petitioner's land is concerned, it is listed as S.No.10. While being so, the fourth respondent issued a letter dated 17.07.2021 calling upon the petitioner to determine compensation for the land sought to be acquired for the purpose of expansion of bridge across Vadaperumbakkam, though the adjacent land is lying vacant. On receipt of the same, the petitioner had sent his objections dated 20.07.2021 to the third respondent requesting for alternative alignment. However, it was not considered and kept in abeyance. Therefore, the petitioner approached this Court by filing writ petition No.17288 of 2021, in which, this Court, by its order dated 28.06.2024, directed the respondents not to interfere with the petitioner's peaceful possession of running petrol bunk situated at S.No.231/13, Plot No.21, Vadaperumbakkam, Puzhal Village, Thiruvallur District, without any due process of law, and it was made clear that if the respondents want to acquire the land to lay bridge in the subject property, they are at liberty to proceed in accordance with law. While being so, the second respondent cancelled the planning permission and building permit dated 23.03.2020.

5. On perusal of the counter affidavit and upon hearing the submission of the learned counsel for the respondents 1 to 3 and 4, it is



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revealed that the petitioner was served with show cause notice by affixure dated 31.03.2022, however, even then, the petitioner failed to reply to the same. Therefore, the second respondent passed the impugned order dated 11.04.2022 cancelling the planning permission and building permit dated 23.03.2020. Now, because of the interim order passed by this Court, entire construction work of bridge is stalled without any progress. He has also produced photographs to show that the construction of bridge work is stalled.

6. Admittedly, the respondents failed to acquire the land in question under any land acquisition proceedings. The Detailed Project Report (DPR) for construction of bridge across Puzhal surplus water canal at Vadaperumbakkam was prepared during 2017-2018. As per the project report, tenders were issued and the contractor had commenced the work on 14.02.2019 and the river portion of the bridge work has been completed on 08.01.2021. Since an extent of 1225 sq.mtrs. of land from 13 land owners is required for construction of ramp portion of the bridge, without any acquisition proceedings, those land owners were served with notice to appear before the District Level Private Negotiation Committee for acquisition of land through private negotiation. The value finalized by



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the Private Negotiation Committee was also explained to the land owners in the meeting held on 28.10.2021. Among 13 land owners, 5 land owners have accepted compensation amount fixed by the Private Negotiation Committee and thereby, a sum of Rs.95.40 lakhs was also remitted to the Land Acquisition Officer by the Greater Chennai Corporation.

7. Insofar as the petitioner's land is concerned, the respondents are required only 277 sq.mtrs. of land, for which, they proposed to pay a sum of Rs.51,19,020/- as compensation. Further, the petitioner was not called for any private negotiation to finalize the price. That apart, the petitioner is not agreeable with the private negotiation. Instead of proceeding with the land acquisition proceedings, the respondents had resorted another way to acquire the property of the petitioner by cancelling the planning permission and building permit dated 23.03.2020 granted by the first respondent for construction of petrol bunk. Infact, the petitioner had obtained all the required certificates and approval for commencement of his business since 2019. However, the petitioner was not served with any notice for private negotiation for acquisition of the land in question, instead, the petitioner was issued with a show cause notice to cancel



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planning permission and building permit dated 23.03.2020 granted by the first respondent.

8. Infact, this Court specifically directed the respondents not to interfere with the petitioner's peaceful possession and enjoyment of the property in question without any due process of law, and the respondents were given liberty to initiate acquisition proceedings in respect of the subject property. Without following any of these directions, on the contrary, the petitioner was served with a show cause notice to cancel the planning permission and building permit dated 23.03.2020 granted by the first respondent for petrol bunk. It was not served on the petitioner and it was affixed in the premise of the petitioner. Therefore, the impugned order passed by the second respondent without following due process of law is not sustainable in law and accordingly, it is quashed.

9. For the reasons stated above, the writ petition is allowed and the respondents are at liberty to acquire the land in question either by issuing notice under Section 21 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, or by private negotiation, within a period of two weeks from the



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date of receipt of a copy of this order. No Costs. Consequently,
connected miscellaneous petitions are closed.

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Index: yes/no
Neutral citation: yes/no
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