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W.P.No.35773 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.35773 of 2023

and

W.M.P.Nos. 35751 & 35753 of 2023

K.R.Mohan Ram

.. Petitioner

VS

1.The Principal Secretary to Government  
Highways and Minor Ports Department,  
Fort St.George,  
Chennai - 600 009.

2.The Divisional Engineer,  
Office of Division Engineer (H),  
Construction Management Development  
Programme (CMDP) Division,  
State Highways Department,  
No.1, New Street, 1st Floor,  
Super Bazaar Complex,  
Municipal Commercial Building Complex,  
Alandur, Chennai - 600 016.

3.The Assistant Divisional Engineer,  
State Highways Department,  
No.1, New Street, 1st Floor,  
Super Bazaar Complex,  
Municipal Commercial Building Complex,  
Alandur, Chennai - 600 016.

4.The Assistant Engineer,  
State Highways Department,  
No.1, New Street, 1st Floor,  
Super Bazaar Complex,  
Municipal Commercial Building Complex,  
Alandur, Chennai - 600 016.

.. Respondents



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Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus forbearing the 2nd to 4th respondents from in anyway interfering and demolishing the structures put up by the petitioner in his property measuring to a total extent of 23973 sqfeet comprised in RS.No.74/3(part), now S.No.74/10, 74/11, 74/12, 74/3A and 74/3D, Neelangarai Village, formerly Saidapet Taluk (now comes under Neelangarai Taluk), Chengalpattu District, in lieu of the gift deed executed by the petitioner to an extent of 177.08 Sqmtr (Street Alignment Portion) to the CMDA vide Doc.No.4997/2020 in the SRO, Neelangarai.

For Petitioner : Mr.D.Saikumarran

For Respondents : Mr.P.Anandan,  
Government Advocate

For Advocate Commissioner : Ms.Farheen Begum

### ORDER

The petitioner has sought a mandamus forbearing R2 and R4 from interfering with and demolishing structures put up by the petitioner in his property at R.S.No.74/3(part), now S.Nos.74/10, 74/11, 74/12, 74/3A and 74/3D, Neelangarai Village, formerly Saidapet Taluk (now comes under Neelangarai Taluk), Chengalpattu District.

2. The matter was heard on 21.12.2023 and the rival contentions of the parties was recorded and order passed in the following terms:-

*"Mr.U.M.Ravichandran, learned Special Government Pleader accepts notice for the respondents and vehemently opposes the prayer in the Writ Petition.*

*2. The petitioner prays for a mandamus forbearing the Highways Authorities, i.e., R2 to*



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R4 from interfering and demolishing the structures put up by the petitioner and measuring in total 23973 sq.ft. comprised in R.S.No.74/3(part), now S.Nos.74/10, 74/11, 74/12, 74/3A and 74/3D, Neelangarai Village, formerly Saidapet Taluk (now comes under Neelangarai Taluk), Chengalpattu District ('premises/'premises in question').

3. His case is that he has executed a gift deed to the extent of 177.08 sqmtr. to the Chennai Metropolitan Development Authority (CMDA) vide Doc.No.4997 of 2020 and that the portion between yellow and red lines on the photograph, which is annexed to this order as Annexure -1, is his property and does not form part of the property gifted to the CMDA.

4. This is a question of fact and in order to adjudicate the prayer in the Writ Petition, while directing the respondents to file counter, WMP No.35753 of 2023 seeking direction for appointment of an Advocate Commissioner is ordered.

5. Ms.Farheen Begum, Sy, Advocate, No.42/26, Gee Gee Complex, Anna Salai, Chennai – 2 (Cell No.9791175404) is appointed as Advocate Commissioner to

i) inspect the premises of the petitioner;  
ii) undertake a survey and measurement of the total extent of property in R.S.No.74/3 (part), now S.Nos.74/10, 74/11, 74/12, 74/3A and 74/3D, Neelangarai Village, formerly Saidapet Taluk (now comes under Neelangarai Taluk), Chengalpattu District;

iii) verify the land acquired under the acquisition proceedings and the land gifted under gift deed executed by the petitioner;

iv) arrive at the extent of the property which has been acquired and gifted;

6. For this above purposes, Mr.Siraj, Revenue Surveyor, Neelangarai Village, Sholinganallur Taluk (Cell No.9003989907) will assist the learned Advocate Commissioner.

7. The remuneration of the learned Advocate Commissioner is fixed at a sum of



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*Rs.50,000/- apart from the expenses on actuals, which shall be borne by the petitioner.*

*8. The Advocate Commissioner shall complete the assignment on or before 31.12.2023 and file a report along with supporting materials, and photographs of the premises in question, after serving an advance copy upon both learned counsel.*

*9. Both parties shall maintain status quo, as on today, till the next date of hearing.*

*10. List on 03.01.2024. Registry is directed to print the name of the learned Advocate Commissioner in the cause list."*

3. The Advocate Commissioner has filed a Report dated

2nd January, 2024 and the operative portion reads thus:-

*"3. I state that on 28.12.2023 with the presence of Petitioner, Petitioner's Counsel, Mr.Deepak, the Assistant Divisional Engineer - CMDP - II, Mr.Raja.R, the Assistant Engineer - CMDP - III, Mr.Selva Nambi, the Divisional Engineer - CMDP - I, Mr.P.Chidambaram, the Special DRO LA&M, Chennai, Mr.Sabanayagam, the Tahsildar - LAM, Chennai, Mrs.N.Jayalakshmi, the Sub Inspector of Surveyor Highways Spl Unit - LAM - Chennai and Mr.Sirajuddin.I, the Inspector of Surveyor Highways - Revenue Department, Sholinganallur Taluk was inspected the Petitioner's premises property and it clearly shown that as per gift Deed 4.8 Meters was acquired by the Respondent and land Acquisition was taken 1.2 Meters.*

*4. I state that as per inspection and measurement done with the help of Surveyor it clearly shows the respondent have acquised 1.2 Meters petitioner's property and the Respondents has made ready the award to give compensation to the Petitioner immediately after perusing valid documents without any encumbrances.*

*5. I state that in measurements recorded by the advocate commissioner it is clearly shows*



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*the measurements with the signature of all the parties mentioned above."*

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4. The narration as above makes one thing clear-that the petitioner's prayer is not liable to be countenanced for the reason that, admittedly, both the factum of execution of gift deed by the petitioner as well as acquisition of land by the authorities have indeed taken place. Learned counsel for petitioner would fairly accede to this positions. Though petitioner raises some questions regarding the exact quantum of land acquired, that constitutes a factual dispute with which this Court cannot concern itself in a writ petition.

5. Recording the above admitted position, the prayer of the petitioner for mandamus is rejected. The parties are at liberty to carry forward matters in regard to acquisition and payment of compensation, in accordance with law.

6. Learned Advocate Commissioner confirms that the remuneration directed to be paid and the expenditure have been received by her. This is recorded and her warrant stands recalled.

7. This writ petition stands dismissed in terms of this order. No costs. Connected miscellaneous petitions are closed.

03.01.2024

Index:Yes/No  
Neutral Citation:Yes  
ssm



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DR. ANITA SUMANTH,J.

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