



W.A.(MD)No.375 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.09.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN
AND
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

W.A.(MD)No.375 of 2019 &
C.M.P(MD)No.3329 of 2019

S.Amutha

...Appellant

vs.

- 1.The Managing Director,
Tamil Nadu Water Supply and Drainage Board (TWAD),
No.31, Kamarajar Salai,
Chepauk, Chennai - 600 005.
- 2.The Chief Engineer,
Tamil Nadu Water Supply and Drainage Board (TWAD),
Eastern Region,
Medical College Road,
Thanjavur,
Thanjavur District.
- 3.The Executive Engineer,
Tamil Nadu Water Supply and Drainage Board (TWAD),
Rural Water Supply Division,
No.76, Hospital Road,
Vellipalayam,
Nagapattinam - 611 001.
- 4.The District Revenue Officer,
Thanjavur District.



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5. The Indian Hume Pipe Company Ltd.,
Represented by its Manager,
New No.361, Old No.173,
New Royal Rite, Roof No.B2,
2nd Floor, Lloyds Road,
Gopalapuram,
Chennai - 600 086.

... Respondents

Prayer: Writ Appeal filed under filed under Clause 15 of Letters Patent Act to set aside the order dated 12.12.2018 in W.P.(MD)No.16390 of 2018 on the file of this Court and to allow the appeal.

For Appellant : Mr.K.Doraisami, Senior Counsel
for Mr.Kandhan Duraisami

For Respondents : Mr.B.Vijay Karthikeyan
for R2 and R3

Mr.M.Sarangan for R4

Mr.D.Kirubakaran for R5

No appearance for R1

JUDGMENT

(Judgment of the Court was delivered by P.VELMURUGAN, J.)

The appellant filed the writ petition in W.P.(MD)No.16390 of 2018 praying to direct the respondents 1 to 4 to take necessary steps to pay compensation to her as per present market value i.e., Rs.37,80,000/- for her demolished house in old S.No.115/2, new S.No.414/34 to the extent



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of 1554 sq. ft. and vacant land in old S.No.115/3 new S.No.414/35A to the extent of 2214 sq. fts. (total extent 3768 sq. ft.), Railway Station Road, Aduthurai, Thanjavur District, where TWAD Board laid pipelines in the year 2006 for completing the Mega Project namely combined Water Supply System [hereinafter referred to as 'CWSS'] to Nagapattinam and 890 habitations.

2. The Writ Court after hearing the writ petition, dismissed the same. Challenging the same, the petitioner in the writ petition has filed the present intra-Court Writ Appeal.

3. The learned senior counsel appearing for the appellant would submit that in the year 2006, the Executive Engineer, TWAD Board, Urban Division, Thanjavur executed a Mega Project namely CWSS (laying pipelines to supply drinking water) to Nagapattinam and 890 habitations through the fifth respondent Company. While so, there was a railway crossing in existence in the sector Aduthurai - Thiruneelakudi Road and the TWAD Board had to lay pipelines across the railway line.



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The TWAD Board decided to get the nearby dwelling houses and the land belonging to one A.Senthil Kumar to carry out the project. The Executive Engineer requested the fifth respondent to pay a sum of Rs. 2,00,000/- to the then land owner for laying 1000 mm PSC pipe in his land for the above said project and assured it will be reimbursed. Since the then land owner demanded immediate payment of money from the fifth respondent for handing over the land for laying pipelines, the Executive Engineer requested the appellant's husband namely M.Senthil Kumar, who was one of the Sub-Contractors under the fifth respondent to purchase the land and give consent for laying pipelines. He assured that the TWAD Board, in turn, will purchase the land from the appellant's husband within three months. Therefore, the appellant's husband entered into a Sale Agreement dated 21.06.2006 with the then land owner A.Senthil Kumar for a total sale consideration of Rs.6,00,000/-. A registered Power of Attorney deed dated 12.07.2006 was executed in favour of the appellant's husband by the then land owner A.Senthil Kumar. The appellant's husband gave a consent letter dated 12.07.2006 to the TWAD Board for laying pipelines in the land belonging to



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A.Senthil Kumar. The appellant's husband has been continuously requesting the TWAD Board and also sending representations to the TWAD Board Officials to purchase the land from him. The appellant's husband being the power agent of the original land owner, sold the property to the appellant for a valuable sale consideration at the prevailing market rate. Therefore, he filed the writ petition for recovering all the amount, whereas, the learned Single Judge dismissed the writ petition stating that it is barred by limitation for the reason that for the pipelines laid in the year 2006, the writ petition came to be filed only in the year 2018. The appellant's husband had been requesting and sending representations right from the year 2007 to the TWAD Board requesting them to purchase the land from him. The second respondent in his Right to Information Act reply dated 02.12.2007, admitted the case of the appellant's husband and informed that the land was valued by the District Revenue Officer, Thanjavur and necessary proposals were sent to the TWAD Board Head Office for approval, for making payment for purchase of the land from him. The admission in the Right to Information Act reply and the continuous use of land till date will satisfy



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the limitation. The appellant's husband paid a sum of Rs.6,00,000/- out of his pocket to the then owner on behalf of the TWAD Board for laying pipelines for the said project. The learned Single Judge failed to consider the above said fact and simply dismissed the writ petition stating that the appellant is not entitled to get compensation from the TWAD Board. Therefore, the appellant is before this Court.

4. The learned counsel for the respondents 2 and 3 would submit that, admittedly, TWAD Board had proposed to implement the Project of CWSS to Nagapattinam Municipality and 890 rural habitations. The Project was executed by Urban Division, TWAD Board, Thanjavur through the contractor / fifth respondent Company in the year 2006 and the same was completed in the year 2007. The fifth respondent Company who was the original contractor had entrusted sub-contract to the appellant's husband. During the implementation of the Project, it was informed that in the place of work near Aduthurai Railway crossing, a private land was found within the proposed project area in the above mentioned survey numbers to the extent of 3,768 sq. ft. The officials



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were told that unless the private land is acquired, work could not be completed. The appellant's husband who was the sub-contractor and the main contractor had approached the TWAD Board, stating that he will negotiate with the land owner by himself and get the land sold to the Board, so that, there would not be any issues to proceed with the Project through the land. He also promised to get the sale deed executed in favour of the TWAD Board during the course of the Project. The sale consideration was fixed at Rs.6,00,000/-. The Executive Engineer, Urban Division, TWAD Board, Thanjavur in his letter dated 01.06.2006 has asked the fifth respondent to pay a sum of Rs.6,00,000/- towards sale consideration to the land owner for the purpose of completion of pipeline work. The Executive Engineer in his letter dated 14.06.2006 had instructed the fifth respondent to pay a sum of Rs.2,00,000/- and make arrangements to get the Agreement executed for the sale of the land. Thereafter, the matter was left at the hands of the fifth respondent, who was the main contractor. It is only at the instruction of the fifth respondent and on the basis of unofficial arrangements made between the land owner, sub contractor and the fifth respondent, the appellant's



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husband got power of attorney from the then land owner instead of getting the sale deed executed in favour of the TWAD Board. Further, he would submit that the appellant's husband intentionally cheated the TWAD Board by getting the power of attorney in his favour. Even without informing any progress to the Board, he transferred the property in the name of his wife, who is the appellant herein, in order to grab huge money as compensation from the Board. The appellant's husband as a sub contractor is having knowledge about the use of the land and therefore, he ought to have claimed compensation within a period of three years and he has not given any proper explanation for the delay. There are no merits in the appeal and the appeal is liable to be dismissed.

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

6. Admittedly, as per the original plan, there was a railway crossing in existence in the sector Aduthurai - Thiruneelakudi Road and the TWAD Board had to lay pipelines across the railway line. Therefore, the officials, in order to lay pipelines as per the Scheme, advised the original



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contractor to acquire the private land in the name of the TWAD Board and get compensation. However, admittedly, no land was acquired / purchased in the name of the TWAD Board and the Scheme itself has been completed. According to the appellant, her husband got power of Attorney from the original owner and subsequently, he sold the land in her name on the promise made by the respondents that they would purchase the land from them. However, the case of the respondents is that the appellant's husband has cheated the TWAD Board. Though he insisted on purchasing the land / acquiring the land in the name of TWAD Board, he got power of attorney in his name and sold the land in favour of his wife in order to get higher compensation.

7. Considering the above facts and circumstances, this Court is of the opinion that it requires evidence and factual clarification regarding what is the promise or Agreement between the parties in order to decide what is the breach. The breach of Agreement cannot be decided by mere filing of an affidavit in the absence of any material evidence. Therefore, we feel that the present dispute cannot be resolved by the writ Court.



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Under such circumstances, the writ appeal is dismissed. However, the appellant is at liberty to workout her remedy before the appropriate forum in the manner known to law. No costs. Consequently, connected Miscellaneous Petition is closed.

(P.V., J.) (K.K.R.K., J.)
30.09.2024

NCC:Yes/No
Index:Yes/No
Speaking/Non-speaking order

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and
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