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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2025

CORAM :

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

Writ Petition No.32912 of 2022
and WMP No.32312 of 2022

Ansa

.... Petitioner

-Vs-

- 1.The District Collector
Tiruvannamalai District
Tiruvannamalai.
- 2.The District Revenue Officer
Tiruvannamalai District
Tiruvannamalai.
- 3.The Revenue Divisional Officer
Chengam Taluk
Tiruvannamalai District
Tiruvannamalai.
- 4.The Tahsildar
Chengam Taluk
Tiruvannamalai District
Tiruvannamalai.
- 5.The Chief Engineer & Project Director
Tamil Nadu Road Sector Project
No.48, Dr.Muthulakshmi Salai
2nd Floor, Housing Floor Complex
Adayar, Chennai-20.



6.The Divisional Engineer
Tamil Nadu Road Sector Project
TANCOF Building, Annasalai
New Railways Gate.

7.The Special Tahsildar (Land Acquisition)
Tamil Nadu Road Sector Project
TANCOF Building
Dindivanam Road
Tiruvannamalai.

.. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 1 to 4 to delete the entry in the revenue register in the name of the highways department (Government Poramboke) for the property admeasuring 0.07.5 hectare out of 2.90 acres comprised in S.No. 23/1 situated at Munnurmangalam Village, Chengam Taluk, Tiruvannamalai District and restore the name of the petitioner by consider representation dated 27.07.2020.

For Petitioner : Mr. R.Rajarajan

For Respondents : Mr.P.Sathishi
Additional Government Pleader
for R1 to R7



ORDER

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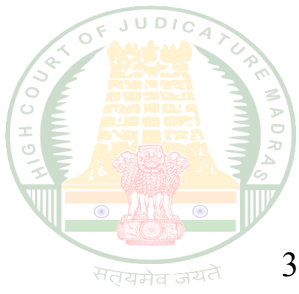
This writ petition came up for hearing on 18.03.2025 and the following order was passed by this Court :

This writ petition has been filed for a direction to respondents 1 to 4 to delete the entry that has been made in the revenue register in the name of the Highways Department and to restore the name of the petitioner based on the representation dated 27.07.2020.

2.The 4th respondent has filed a counter and the relevant portions are extracted hereunder:

3. I state that land measuring an extent of 0.075 hectare of land out of 2.98 acres was in need for formation of Highway Road and the same has been purchased based on private Negotiation on 19.12.2006. The compensation for the land purchased was paid to one Mr.Munirajan (husband of the petitioner) who received Rs.20,234/- with acknowledgement on 19.12.2006 by Demand Draft Tahsildar, Chengam based on proceedings of District Collector, Tiruvannamalai in M1/3053/2005, dated 29.06.2006, character the Highway road has been formed and it is being used by public from 2006.

4.I state that the lands required for Highway Road has already been purchased on 19.12.2006 and utilized for the purpose. Therefore the Writ petition deserves no consideration I gave leave of the Hon'ble court to raise additional counter affidavit if any at later point of time.



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3.The petitioner had earlier filed W.P.No.21029 of 2008 to forbear the respondents from acquiring the property. This writ petition was disposed of by an order dated 06.06.2019 and at Paragraph No.5 of the order, this Court has specifically taken note of the fact that the entire property in S.No.23 was purchased by the Tamil Nadu Road Sector Project through private negotiation. The same stand has been taken in the counter affidavit filed in this writ petition. Once the property has been purchased through private negotiation and the compensation amount has also been paid in favour of the petitioner's husband by means of a Demand Draft and the property has been utilized by the highways from the year 2006, it is incomprehensible as to how the patta can once again be changed in the name of the petitioner. The other issue is as to why the respondents will have to resort to acquisition proceedings when the lands have already been purchased through private negotiation.

4.The learned counsel for the petitioner seeks for time to take instructions in this regard.

5.Post this writ petition under the caption 'Part Heard Cases' on 25.03.2025.

2.When the writ petition was taken up for hearing today, the learned counsel for the petitioner submitted that the petitioner is the owner of the subject property and her husband did not have any right or title to deal with the property and execute the sale deed in favour of Tamil Nadu Road Sector Project. The learned counsel submitted that even after taking over the property, it was not put to use and as a



result, the property has been encroached by the outsiders and that defeats the purpose of acquiring the property. The learned counsel further submitted that only when enquiry was conducted, it came to light that the petitioner's husband did not have the right to execute the sale deed and the property has not been utilized for the purpose for which it was taken over and therefore the present writ petition came to be filed before this Court.

3.Per contra, the learned Additional Government Pleader appearing on behalf of the respondents submitted that a major portion of the property has been utilized and a small portion has been left out for being put to use in future. The learned counsel submitted that insofar as encroachments that have been made, steps have been taken to evict the encroachers under the Land Encroachment Act.

4.This Court has carefully considered the submissions made on either side and the materials available on record.

5.In the considered view of this Court, the petitioner's husband has dealt with the property and he has also executed a sale deed dated 19.12.2006 in favour of the Tamil Nadu Road Sector Project. Sale consideration was also paid by way of demand draft. While so, conveniently, the petitioner questions the sale deed at this length of time. The petitioner had earlier filed a writ petition in WP.No.21029 of 2008 and in



that writ petition the petitioner had sought for a mandamus forbearing the respondents from acquiring the property pursuant to the sale deed dated 23.05.2005.

This writ petition came to be dismissed by this Court by an order dated 06.06.2019 and the relevant portions are extracted hereunder:

4.The learned Government Advocate, Mr.Elumalai would submit the writ petition itself is not maintainable since no action has been taken in respect of the property owned by the petitioner. Through proper initiation, the respondent has purchased the property from the husband of the petitioner and the respondent is entitled to take any decision of the property. If any threat or notice is issued to the petitioner for acquisition of her property, then, it is open to the petitioner to work out the remedy in the manner known to law before the competent forum. Accordingly, prays for a dismissal of this petition.

5.On a perusal of the records, it is clear that the petitioner and her husband purchased the above said properties by way of two sale deeds. However, the records produced by the petitioner shows that the 3 rd respondent has purchased the entire property in Survey No.23, from her husband in favour of the State. Further, the petitioner did not produce any records to show that the respondent authority have tried to acquire the property owned by the petitioner. In the absence of the proof, mere apprehension will not give any right to the petitioner to approach this court under Article 226.

6.In view of the above, this Court is not inclined to entertain this writ petition, accordingly, the writ petition stands dismissed. However, liberty is granted to the petitioner to work out the remedy in the manner known to law before the appropriate forum if any acquisition



proceedings would be initiated against the property. Consequently, connected miscellaneous petition is closed. No costs.

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6.It is quite evident from the above order passed by this Court that this Court had taken note of the sale deed that was executed by the husband of the petitioner and therefore, the relief as sought for by the petitioner was not granted.

7.If the petitioner is aggrieved by the fact that her husband had executed the sale deed and that he did not have any right to execute such a sale deed in favour of the Tamil Nadu Road Sector Project, the same had to be put to challenge before the competent Civil Court. It is not known as to whether the husband had purchased the property in the name of the wife and these are facts which can be established only before the competent Civil Court. It is not as if some third party had executed a sale deed in favour of the Tamil Nadu Road Sector Project.

8.In view of the fact that the property has been sold in favour of the Tamil Nadu Road Sector Project and the same has not been put to challenge and the property has been mutated in the name of the Highways Department, the relief as sought for in the present writ petition cannot be granted by this Court. If at all there are any encroachments in the property, there shall be a direction to the respondents to initiate appropriate proceedings to remove all the encroachments and to ensure that the property is put to use by the Highways Department.



9. In the result, this writ petition stands dismissed in the above terms.

No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

NCS : Yes/No

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N.ANAND VENKATESH, J.

KP

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