



WEB COPY



A.S.No.114 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 24.03.2025

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

A.S.No.114 of 2024

Y.Jagadeesa Thilagan ... Appellant/1st Respondent/Plaintiff

-VS-

1. Mrs.Santhi @ Santhi Anbalagan
... 1st Respondent/Petitioner/1st Defendant

2. The Special District Revenue Officer (LA)
National Highways,
Kanchipuram and Thiruvallur Districts,
Mamallapuram-Puducherry Corridor,
NH-332A, No.16, Varadharajan Street,
Vedhachala Nagar,
Chengalpattu-603 001.

... 2nd Respondent/2nd Respondent/2nd Defendant

Prayer: Appeal Suit is filed under Section 96 of CPC r/w Order XLI & XLI-A of CPC to set aside the decree and judgment dated 06.11.2023 made in I.A.No.4 of 2023 in O.S.No.2529 of 2022 on the file of II Additional City Civil Court, Chennai.

For Appellant : Mr.K.Sakthivel
For R1 : Mr.S.Udhayakumar
For R2 : Mr.C.Sathish
Govt. Advocate

J U D G M E N T



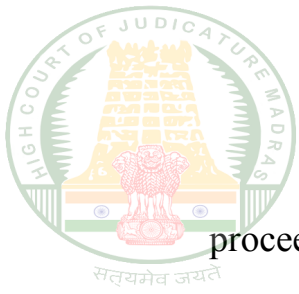
A.S.No.114 of 2024

WEB.COM

A challenge has been made to the order of the Trial Court, rejecting the plaint filed by the plaintiff, seeking the relief of declaration that he has right to receive the compensation in respect of Notification issued under Section 3D of the National Highways Act in S.O.No.761(E) dated 05.02.2019 by Ministry of Road Transport and Highways, New Delhi published in Gazette of India Extraordinary Part II, Section 3, sub-section (ii) of No.643 dated 06.02.2019. The plaintiff also sought a direction to the 2nd defendant to pay the compensation in respect of Notification under Section 3D of the Act with further direction to the 1st defendant to pay a sum of Rs.5,00,000/- to the plaintiff on account of loss of reputation and image and for mental agony.

2. The parties are arrayed as per their own ranking in the suit filed by the plaintiff.

3. The plaint proceeded on the basis that the lands of the plaintiff were acquired earlier and the plaintiff gained experience in various procedures in respect of land acquisition and land compensation



A.S.No.114 of 2024

proceedings. Therefore, his services were sought by known people. The 1st

defendant is employed as Deputy Production Manager with Bharat Electronics Limited and her land to the extent of 0.215 acres was acquired by the National Highways Department. The 1st defendant sought the plaintiff's services to expedite the processing of the land acquisition compensation and thereafter, she also offered to sell the property to the plaintiff and executed a Power of Attorney on 24.11.2011 after receipt of Rs.23,00,000/-. Thereafter, the plaintiff approached the authorities for compensation.

4. In the meanwhile, the 1st defendant issued a legal notice on 10.12.2021, demanding the plaintiff to consent for cancellation of the Power of Attorney. On 30.12.2021, the 1st defendant remitted a sum of Rs.23,00,000/- received by him. According to the plaintiff, he has right to receive compensation in respect of the land acquired by the National Highways Department. On the application filed by the 1st defendant, the suit has been rejected by the Trial Court mainly on the ground that the plaintiff has no right or interest. The Power of Attorney has also been cancelled. Any



A.S.No.114 of 2024

such document, which came into existence after notification is void and on the basis of the alleged cash receipt, no interest has been created in favour of the plaintiff and thus, the Trial Court has rejected the plaint. Challenging the same, the present appeal came to be filed.

5. The main contention of the learned counsel for the appellant is that even after publication of Notification, the 1st defendant has received Rs.23,00,000/- and executed the Power of Attorney in favour of the plaintiff, besides cash receipts. The same clearly indicates that the appellant is entitled to sell the property, as the appellant steps into the shoes of the owner to claim compensation. When the suit has been filed, the same ought to have been tried, whereas the Trial Court rejected the same on the basis of the application filed by the 1st defendant. In support of his submission, learned counsel for the appellant referred to a judgment of the Apex Court in the case of ***U.P.Jal Nigam, Lucknow vs. M/s.Kalra Properties Private Limited and others***, reported in ***CDJ 1996 SC 382***.

6. Per contra, learned counsel for the 1st respondent would



A.S.No.114 of 2024

WEB COPY

contend that there is no cause of action shown to institute the suit and the appellant is making an attempt to make an unjust enrichment over the compensation amount payable to the 1st respondent herein. The suit is nothing, but an abuse of process of law and hence, learned counsel for the 1st respondent prayed for dismissal of the appeal.

7. In the light of the above, the points for consideration in this appeal are as to i) whether any right or interest is accrued in favour of the appellant to seek compensation in respect of the land of the 1st respondent herein and ii) whether the order of the Trial Court is proper in law?

POINTS:

8. Normally, a plaint can be rejected only on the grounds as set out in Order VII Rule 11. But, in extraordinary circumstances, when it appears that the suit is nothing, but a clear abuse of process of law, it cannot be said that Courts have no power to curb such abuse even at the threshold. The plaint proceeded as if the plaintiff gained experience in land acquisition proceedings, particularly in claiming compensation and therefore, his services were sought by many people. The plaintiff has stated that first



A.S.No.114 of 2024

defendant had initially approached the plaintiff to help her to expedite the land acquisition proceedings and later, executed a Power of Attorney after receipt of Rs.23,00,000/-. The very pleadings itself would indicate that the plaintiff's main job is to process the application to claim compensation on behalf of somebody.

9. According to the plaintiff, since a Power of Attorney has been executed in his favour, besides cash receipts, an interest over immovable property has been created in his favour too. In the plaint, it has been clearly indicated that the Power of Attorney executed in favour of the plaintiff has been cancelled as early as on 10.12.2021 by notice. Similarly, the so-called amount of Rs.23,00,000/- has also been transferred to the plaintiff's Bank account. These facts clearly indicate that the amount said to have been received by the 1st defendant has been repaid. Merely on the basis of the Power of Attorney and cash receipt, one cannot claim that right has been created in favour of a party in respect of the immovable property. It is relevant to note that even if there is an agreement to sell a property, the agreement will not create any right or interest in respect of an immovable



A.S.No.114 of 2024

property, whereas, the agreement is capable of enforcement alone.

WEB COPY

10. In the present case, it is the case of the plaintiff that no such agreement has been entered into between the parties, but there was only a cash receipt. Merely based on the cash receipt, no interest whatsoever would accrue to the plaintiff in respect of the immovable property. Even if the cash receipt or the Power of Attorney was intended to sell the property, such sale is nothing, but *void ab initio*, since the notification had already been issued prior to such transaction. Therefore, the contention of the appellant that he has right to receive compensation on the basis of the those documents has no legs to stand.

11. The Apex Court in the case ***U.P.Jal Nigam, Lucknow vs. M/s.Kalra Properties Private Limited and others*** (supra) categorically held that a property purchased after Section 4(1) notification by way of a sale deed is void and the subsequent purchaser cannot challenge the validity of notification or the regularity in taking possession of the land. Further, the Apex Court held that the subsequent purchaser is entitled to step into the



A.S.No.114 of 2024

WEB COPY

shoes of the owner and the payment of compensation in terms of the relevant provisions of law. It is pertinent to mention here that the Apex Court granted such right only to a purchaser, who acquired title on proper registration of the document. In this case, no agreement whatsoever has been entered into between the parties and no right has been created. Therefore, as a matter of right, one cannot seek declaration. When there is a legal right, the declaration of such relief can be sought. For argument sake, even if it is taken that there is an agreement, the same will not create any right or interest over the property. Further, land has been acquired by the National Highways Authority and hence, the relief of declaration cannot be maintainable. As stated supra, the suit is nothing, but a waste of time and clear abuse of process of law. Though it is stated that the plaintiff also claimed compensation of a sum of Rs.5,00,000/- from the 1st defendant for the loss of reputation, image and for mental agony, there were no pleadings in the manner in which the plaintiff suffered damages or loss of reputation. Hence, the appellant is not entitled to any compensation.

12. In the result, while answering the points accordingly and



A.S.No.114 of 2024

finding no merits, the instant Appeal Suit is dismissed. The order of the Trial

WEB COURT, rejecting the plaint filed by the plaintiff is confirmed. No costs.

24.03.2025

Index: Yes / No

Internet: Yes / No

ar

To:

1. The II Additional City Civil Judge,
Chennai.
2. The Special District Revenue Officer (LA)
National Highways,
Kanchipuram and Thiruvallur Districts,
Mamallapuram-Puducherry Corridor,
NH-332A, No.16, Varadharajan Street,
Vedhachala Nagar,
Chengalpattu-603 001.
3. The Section Officer,
V.R.Section,
High Court,
Madras.



WEB COPY



A.S.No.114 of 2024

N.SATHISH KUMAR,J.,
ar

A.S.No.114 of 2024

24.03.2025