



WP.No.11061 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 04.07.2024

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THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.11061 of 2024
& WMP No.12145 of 2024

G.Prem Kumar

.. Petitioner

Versus

1.The District Collector,
Collectorate, GST Road,
Chengalpattu, Tamil Nadu-603 001.

2.The Special Tahsildar(Land Acquisition),
No.76, Highways Research Station Campus,
Sardar Patel Road, Opp., Raj Bhavan,
Guindy, Chennai-600 025.

3.Sivaganesan

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st and 2nd respondents herein to disburse and release the compensation award amount determined under Section 19 of the Tamil Nadu Highways Act, 2001 by transferring the same in favour of the petitioner for acquiring his property situated at Plot No.19 (Door No.19) East Coast Road Sri Kapaleshwar Nagar, Neelankarai Village, Chennai, Tamil Nadu-600 115, that was acquired for East Coast Road widening.



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For Petitioner : Mr.G.Vijay Anand, Senior Counsel,
for G.Vijay Anand Associates

For Respondents : Mr.A.Selvendran,
Special Government Pleader for R1 & R2

Mr.Krishna Ravindran for
Mr.P.Kavin Prabhu for R3

ORDER

This writ petition has been filed seeking direction to the 1st and 2nd respondents herein to disburse and release the compensation award amount determined under Section 19 of the Tamil Nadu Highways Act, 2001 by transferring the same in favour of the petitioner for acquiring his property situated at Plot No.19(Door No.19), East Coast Road, Sri Kapaleshwar Nagar, Neelankarai Village, Chennai, Tamil Nadu-600 115, which was acquired for East Coast Road widening.

2.By consent, the main writ petition itself is taken up for final disposal.

3.It is the case of the writ petitioner that an extent of two grounds 1090 sq.ft., of land was purchased and registered by the petitioner vide sale deed bearing document No.3877 of 1982 on 11.10.1982. The said property



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was purchased by the petitioner's vendor from one Mohammed Haneefa from a partnership firm viz.,RMC Traders, by way of registered document No.2281 of 1979. The land was originally developed into a residential layout by the said partnership firm viz.,RMC Traders, which was running the business of real estate and had obtained the approved layout plan. The petitioner, after purchase of the land and being the qualified Engineer has employed in the United States of America, had constructed a wall around the property and said property was in his possession. The Highways Department has acquired certain portion of the land for the purpose of widening the road, taking advantage of the absentee landlord. The third respondent trespassed into the property despite a police complaint lodged, however, no action has been taken. Thereafter, writ petition has been filed before this Court in W.P.No.12352 of 2024. Only after intervention of the Court, the possession has been restored. Not stopping with that, an objection has been now given to the Highways Authorities not to disburse the compensation to the petitioner. Hence, the petitioner seeks a direction.

4.The third respondent has filed a counter to the effect that he is one of the partners of the partnership firm viz.,M/s RMC Traders duly



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constituted under the Partnership Act with registration No.1142/1964. He

was inducted as partner of the firm on 11.09.2023. Presently, there were

two partners in the firm viz., R. Vasudevan and the third respondent herein.

As per Resolution dated 15.03.2024, this respondent was authorised to

represent the firm to protect the properties owned by the firm including the

property in dispute. After forming layouts in the year 1972, the firm had

sold some of the plots to various individuals and retained some of the plots.

The said properties are also in possession of the firm. According to the third

respondent, the sale deed of the year 1979 was executed by the General

Power of Attorney on 09.06.1972 and the said sale is not valid since the

Power of Attorney was executed in favour of one A.E. Ramajayam by other

two partners in their own and personal capacity and not relating to the firm.

Taking advantage of the power deed in respect of other properties, the firm

properties have been sold. Therefore, it is the contention of the learned

counsel for the third respondent that the sale in favour of the writ petitioner

is not valid and in this regard also suit has been filed in O.S.No.206 of

2024. It is the further stand of the learned counsel for the third respondent

that in the cases of dispute in respect of title, there is a specific mechanism

under the Tamil Nadu Highways Act, 2001, for disbursement of the

compensation and sought to dismiss the writ petition.



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WEB COPY 5.Learned counsel for the writ petitioner would submit that taking advantage of the land purchased by the absentee landlord, now there is a group attempting to retrieve such plots in ECR Road and for that purpose, all sorts of objections not only before the Highways Department but also other departments started flowing. When the subject property was already dealt with in the year 1999, the petitioner, for the first time made an objection in the year 2023. Therefore, it is nothing but clear blackmail whereas the learned counsel for the third respondent would submit that there is a dispute and since civil suit is also pending, the compensation amount has not been disbursed.

6. Heard the learned counsel appearing for the parties and perused the materials on record.

7. In the counter affidavit filed by the third respondent, the execution of the Power of Attorney in the year 1972 is not disputed. Now the contention raised is to the effect that the Power of Attorney was executed in favour of one A.E.Ramajayam by other two partners in their own and personal capacity and not relating to the firm and that issue has been raised

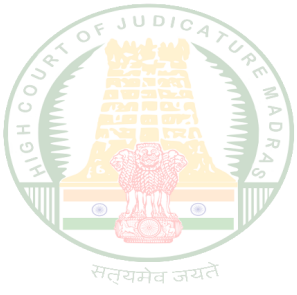


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for the first time only in the year 2023. The third respondent's counter affidavit also disclosed that he is now only aged about 37 years. At the time of execution of Power of Attorney in the year 1972, he was not even born. Be that as it may, now it appears that he has filed a suit in the year 2024 for cancelling the documents. This Court is of the view that the very nature of the objection made after long number of years and the very conduct of the third respondent shows that an attempt has been made for the first time to make inroads into the property sold in the year 1972. Be that as it may, as the petitioner is having better title and the sale deed has not been annulled by any competent Court, the Highways Department cannot deny the compensation amount merely based on the objection. In such view of the matter, the Special Tahsildar, the second respondent is directed to disburse the amount within a period of 10 days from the date of receipt of a copy of this order.

8. Taking note of the fact that civil suit has already been filed by the third respondent, in the event the third respondent succeeds in the civil suit, the petitioner is liable to return the compensation amount with interest at the prevailing rate of Bank interest.



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Consequently, connected miscellaneous petition stands closed.

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Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

To

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N. SATHISH KUMAR, J.

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