

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON 17/12/2014

DATED: 21/01/2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.30835 of 2014 &
M.P.No.1 of 2014

R.Janarthanam

... Petitioner

Vs.

1. State of Tamil Nadu,
Rep. by its Secretary,
Housing and Urban Development,
Fort St. George,
Chennai - 600 009.

2.The Managing Director,
The Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.

3.The Chairman,
The Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.

4.The Executive Engineer and
Administrative Officer,
K.K.Nagar,
Tamil Nadu Housing Board,
Chennai - 600 083.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for a Writ of Declaration, to declare that pursuant to Section 24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013) the acquisition proceedings of the respondents in G.O.No.826, Housing Urban Development Department issued a Notification dated 15.05.1978 is lapsed in respect to land extent of 2.26 acres comprised in Survey Nos.283/1, 284/1, 284/2 and 284/3 situated at Old State Bank Colony, 3rd Street, West Tambaram, Chennai - 600 045 and the superstructure thereon and consequently forbear the respondents herein in any manner

interfering with the peaceful possession of the petitioner.

For Petitioner : Mr.K.M.Vijayan, Senior Counsel
For Mr.T.Karthick Srinath

For Respondents : Mr.S.Gomathinayagam
Additional Advocate General
Assisted by Mr.V.Shanmugasundar
Government Advocate for R1

Mr.B.Vivekavanan for R2 to R4

O R D E R

The petitioner has filed this writ petition for a Writ of Declaration, to declare that pursuant to Section 24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013) the acquisition proceedings of the respondents in G.O.No.826, Housing Urban Development Department issued a Notification dated 15.05.1978 which has lapsed in respect of land to an extent of 2.26 acres along with superstructure thereon comprised in Survey Nos.283/1, 284/1, 284/2 and 284/3 situated at Old State Bank Colony, 3rd Street, West Tambaram, Chennai - 600 045 and consequently forbear the respondents herein in any manner of interfering with the peaceful possession of the petitioner.

2. The petitioner submits that some of the flat owners have earlier moved a writ petition in W.P.No.2222 of 2013 in January 2013 and obtained interim orders to the effect that is not to dispossess their flats constructed in the land to an extent of 2.26 acres and the same is still pending. The petitioner further submits that the Central Act 30 of 2013 came into effect only on 27.09.2013 and hence, the petitioner has filed this writ petition due to the fresh cause of action arising after the commencement of the Central Act. The petitioner further submits that he had purchased the flat by obtaining bank loan with a limited dream of every middle-class person for owning a house. The petitioner and other flat owners after verifying the required legal formalities regarding the patta and appropriate planning permission issued by the CMDA ventured to purchase their respective flats. The petitioner further submits that under Section 111 of the Tamil Nadu Town and Country Planning Act, the purchase of flats after the proper planning permission from the CMDA has a statutory supremacy against any private claims and with due diligence they have purchased the flat without any demur. The petitioner further submits that the superstructure built thereon also got completion certificate from CMDA and other authorities.

3. The petitioner further submits that he and other flat

owners are in occupation of their respective flats and their vendors were in occupation and possession continuously both under revenue records and the physical possession since 2007, when the planning permission was granted and even prior to that the Tamil Nadu Housing Board who are respondents herein claims to be the owner of the portion of the land pursuant to an acquisition proceedings in G.O.Ms.No.826, Housing Urban Development Department, dated 15.05.1978. The petitioner further submits that at no point of time ever since the acquisition, the respondents were under possession of the acquired property nor the respondents' name have been mutated in the revenue records. It is based on the above admitted fact that the petitioner claims his right under Section 24 (2) of the Central Act of 30 of 2013. The said Act enables the landowner/subsequent purchaser who has claim in the hands of the landowner are entitled to treat the Land Acquisition Proceedings as lapsed if the same is not taken physical possession for more than five years or more years and the extract of the said section is given here below:-

Section 24 "(2) Notwithstanding anything contained in Sub-Section (1), in case of Land Acquisition Proceedings initiated under the Land Acquisition Act, 1894, where an award under the said Section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid in the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provision of this Act."

Therefore, the petitioner is entitled for his legal right to hold on the property which is unclaimed or taken possession by the respondents even after the acquisition proceedings. The petitioner further submits that the contention is that he along with other flat owners are entitled for the legal relief provided under the Central Act 30 of 2013, which overrides the previous enactment of 1894 Land Acquisition Act under which the alleged acquisition took place and not acted upon by taking physical possession. The petitioner along with other flat owners have clear and valid right under the aforesaid provision of law.

4. The petitioner submits the factual history of the entire case as here below:-

The petitioner submits that he is the absolute owner of his respective undivided share of land to an extent of 2.26 acres, at Old State Bank Colony, third Street, West Tambaram, Chennai - 600 045 and the same has been purchased and the said undivided share of land has been registered vide Deed of sale in the office

of the SRO, Tambaram from one Mr.V.Chandrasekaran. The petitioner further submits that the facts narrated herein would show, as to how the petitioner along with other flat owners (who are innocent / bonafide purchasers) of the flat complex at "Nakshathra" face the threat of losing their only shelter and their entire life savings and virtually coming to the streets (with their families) because of certain acts of commission and omission by the authorities including the respondents 2 to 4 herein, in gross violation of Principles of Natural Justice, which in turn will be a flagrant violation of Articles 14 and 21 of the Constitution of India.

5. The petitioner further submits that during the year 2008, he came to know about the project through their friends and newspapers advertisement(s) and thereafter he directly visited the site and saw the construction of the apartments going on in full swing with several workers working on the site. The total extent of land in which the project was going on was compounded. The petitioner booked the flat for valuable consideration and after booking the aforesaid flat like other flat owners approached the Financial Institution / Bank for housing loan and the Bank, through his legal advisor, after detailed scrutiny of the title deeds of the land, on which the project has been proposed, including Planning Permission dated 16.03.2007 bearing No.B/Spl.Bldg/102 A to J/2007 issued by CMDA who has in turn issued the same after detailed scrutiny of title by its own panel of Advocates and Work Permit dated 28.03.2007 bearing No.169/07 issued by Tambaram Municipality (the Local Body), sanctioned the loan. A portion of the consideration was paid by petitioner from out of his life time savings, retirement benefits and selling jewellery. The petitioner further submits that on further verification, he found that Revenue Records like patta, chitta and Adangal were available in the name of the predecessors in title of his vendors. After the lands were purchased by his vendors Revenue Records have been transferred / mutated in the name of his vendors and patta bearing Nos.3260, 3261 and 3394 all dated 29.11.2006, have been issued by Head Quarters, Deputy Tahsildar, Tambaram. There was absolutely no record of ownership or acquisition by Tamil Nadu Housing Board. The petitioner further submits that Chitta and Adangal for the Fasli 1416 have been issued inter-alia in respect of S.Nos.283/1, 284/1, 284/2 and 284/3. The petitioner further submits that their vendor have also paid Land Tax in respect of the lands. Encumbrance certificates from the year 1960 to the year 2008 in respect of S.Nos.283/1, 284/1, 284/2 and 284/3 reflects only the transactions in favour of his vendors and no other transaction or indication reflecting the ownership of TNHB is available.

6. The petitioner further submits that only after examining all title deeds and duly verifying the entire records before the Revenue Authorities, Encumbrance Certificate from the

Sub-Registrar Office, Tambaram and obtaining legal opinion, the petitioner purchased his respective flat by obtaining loan from the nationalized bank who in turn have sanctioned the loan after detailed scrutiny of title of the land and building through their legal panel of Advocates. It is submitted that the entire project "NAKSHATRA" has been constructed on the land of a total extent of 5.52 acres particularly designed to suit the middle and lower income groups, out of which only 2.26 acres is claimed by the respondent. The entire construction was duly approved by the Chennai Metropolitan Development Authority. The petitioner further submits that he had taken possession of the said flat completed in all respects and the petitioner along with other flat owners are residing in the said flats along with their respective family, children and aged parents since then. CMDA has also issued completion certificate dated 23.02.2011 after inspection and satisfying itself that the building has been constructed as per the Planning Permission and without any deviation.

7. The petitioner further submits that after he took possession and started living in the apartment, to his shock and surprise through newspapers and other sources along with other flat owners came to know that the land in which the flats have been constructed was once under Land Acquisition Proceedings and that Land Acquisitions in respect of land of an extent of 2.26 acres was not challenged and released from the clutches of Land Acquisition. On enquiry, the petitioner came to know that the Government of Tamil Nadu vide G.O.Ms.No.826, Housing Urban Development Department issued a Notification dated 15.05.1978 under Section 4(1) of Land Acquisition Act for the formation of a Tambaram Neighbourhood Housing Scheme in respect of land of an extent of 58.02 1/2 acres. The above acquisition was challenged by the affected landowners by way of various writ petitions. The learned Single Judge of this Court, by an order dated 16.12.1983, quashed the Declaration on the ground that there was serious flaw in not conducting the enquiry and liberty was given to the Government to take fresh acquisition proceedings from the stage of Section 4(1) if they desire. As against the non-quashing of 4(1) notification the said landowners filed Writ Appeal before this Court which was allowed by judgment dated 23.08.1985 in so far as the lands of writ petitioner(s). As against the order of the Hon'ble Division Bench dated 23.08.1985, the Government of Tamil Nadu filed a Special Leave Petition before the Hon'ble Supreme Court of India and the same was dismissed by order dated 06.05.1992. Since the order setting aside acquisition notification was in place, it applies to all.

8. The petitioner further submits that thereafter relying on the Division Bench Judgment, a second batch of writ petitions were filed by other landowners and similar order was passed. Hence, the Housing Board had abandoned the entire project under Section 53 of the Act and not proceeded with the development scheme and the

public purpose mentioned for acquisition under the Notification become redundant as Housing Board cannot acquire Land under Section 72 other than the purpose of that Act. Thereafter, the landowners during the year 2004 sought for clarification before the revenue authority as to whether any acquisition proceedings are pending inter-alia in respect of Survey Nos.283/1, 284/1, 284/2 and 284/3 and the Special Tahsildar, TNHB Scheme who is the competent authority in so far as the acquisition proceedings are concerned, by communication dated 04.03.2004 (obtained under Right to Information Act) categorically stated that no acquisition proceedings are pending in respect of those lands and no fresh proceedings will be initiated. The petitioner further submits that the award passed pertinent to S.No.284/2 was not received by the landowners / predecessors in title and the Government had made a revenue deposit and as on date the same has not been withdrawn. Further, the Housing Board in several communications affirmed to other landowners that Land Acquisition will not have any further effect. The petitioner further submits that the lands acquired and possession with Tamil Nadu Housing Board has no access to go into for any housing activities on these lands that are isolated and sprinkled in the surrounding area kept unutilized by the Tamil Nadu Housing Board. The petitioner further submits that to clear the clutches of Land Acquisition Proceedings, the petitioner's vendor approached this Court and ended successfully in his favour. But in the appeal by the Tamil Nadu Housing Board, the Division Bench by its judgment reversed the learned Single Judge order. Against which, the petitioner's vendor approached the Hon'ble Apex Court and the same was dismissed.

9. The petitioner further submits that since the petitioner and his family members and other owners of the apartment who are passing through tremendous mental torture as they may be de-sheltered from their homes, as a caution and to buy peace of mind, he along with other flat owners have submitted representations dated 01.10.2012 and 29.10.2012 to the respondents 1 to 3 herein praying for selling the land to an extent of 2.26 acres for the value fixed by the respondents even though the apartments were purchased after conducting due diligence, obtaining legal opinion and trusting the planning permission. The petitioner further submits that the pathetic situation in this case is that all the documents were vigilantly verified and the apartments were purchased out of hard earned money and with life time savings. The respondent had kept quiet for number of years and CMDA had also issued planning permission by verifying all the necessary documents in which the revenue records including patta and chitta and adangal remains in the name of the landowner. This would depict the poor state of affairs prevailing in the Government offices concerned with registration of immovable properties due to which innocent purchasers like them have been affected. The petitioner further submits that the Housing Board cannot have any several claim in

respect of the land as the Planning Permission under Town and Country Planning was given to an entire extent of land admeasuring 5.52 acres, wherein completion certificate was also given. Further the individual flat owners coming within the disputed area as well as the other outside area have common undivided share which is not severable. The petitioner further submits that even assuming that the respondent claims the land, the superstructure admittedly belongs to individual flat purchasers who cannot be thrown out without considering the claim of the petitioner and other co-owners.

10. The petitioner further submits that out of the entire extent of 5.52 acres on which apartments have been constructed only 2.26 acres of land is the subject matter of the dispute, being claimed by the TNHB and the surrounding lands are admittedly undisputed land and as such, the respondents cannot have any access to the land being claimed by TNHB. The petitioner further submits that in this situation, if TNHB decides to take any drastic steps to vacate all the flat owners along with him other from their residential homes, the petitioner, innocent purchaser, who has purchased the apartments trusting the Planning Permission and other revenue records of the Government will be put to irreparable loss and injury for no fault on their part. The petitioner has been subjected to severe mental torture because of the acts of commission and omission on the part of the Government officials. In fact the petitioner along with other flat owners have been duped by Government records. The petitioner would literally be in the streets with his parents, family and children after investing all their lifetime savings and earnings for no fault of theirs, if the respondents proceed against the subject lands and this will result in irretrievable injustice to them. The petitioner further submits that in this circumstance, equity falls in favour of the petitioner and acquisition under the Land Acquisition is for the benefit of public, a pragmatic approach to make acquisition of land a smooth affair should be evolved by removing procedural bottlenecks.

11. The petitioner further submits that the land of an extent of 2.26 acres claimed by Tamil Nadu Housing Board is land locked and has no approach from road. They came to know that the High Level Committee of the Tamil Nadu Housing Board also observed that the said land is presently occupied by the petitioner and more than hundred other co-owners and many middle class people for whom having a residential home of their own is a lifelong dream / achievement. Removing innocent middle class people like them from their shelters without giving any opportunity to explain themselves will cause irreparable loss and damage to their lives especially when there is no fault on their part. The State being a public welfare state has to protect fundamental right to own a shelter and in the name of providing homes cannot de-shelter them from their existing houses. The petitioner further submits that the purpose

for the acquisition no longer survives as the scheme has been dropped and the Government themselves have issued NOC to other landowners with respect to whom notification was quashed. Further, even if the land is acquired it will serve no useful purpose to the respondent as the same cannot be developed owing to its geographical location without any path entry. On the other hand, he along with other owners will be deserted in the streets with their families after losing their life time, hard earnings for no mistake on their part, if the authorities proceed against the subject lands and many innocent families face the threat of coming to the streets with no remedy in sight except for approaching this Court seeking appropriate reliefs. The petitioner further submits that in order to remove such a crisis due to doctrine of necessity, the petitioner along with other flat owners applied to respondent to convey the disputed land to the petitioner and other owners of the flats, along with the others who made representation dated 01.10.2012 to purchase the same for the value, in as much the respondents cannot effectively use that place in middle of other development and as per the advice of High Level Committee of the TNHB, may consider the representation of the petitioner which was in tune with the respondents.

12. The petitioner further submits that there was contributory negligence on the part of the respondents in permitting the alleged execution which was equally vouched by other statutory authorities, who have not only given planning permission but also completion certificate. The limited claim of mere title by the respondents cannot be against other statutory sanction. The petitioner further submits that along with other flat owners are apprehensive that the Housing Board may take steps any time to take possession of the property which belongs to them. Secondly, it is now not possible to pick and choose the flats which lie in the survey numbers referred to earlier since the construction is completed over the entire extent of land measuring 5.52 acres. Hence, the petitioner along with other flat owners has a legal right to retain the property as bonafide purchasers. Hence, the petitioner entreats the Court to allow the above writ petition.

13. The respondents 2 to 4 have filed a counter statement and refuted the above writ petition. The respondents submit that the petitioner has filed this writ petition with material irregularity with the intention to stall the entire land acquisition proceedings initiated by the respondents for public purpose. The petitioner herein willfully suppressed the real facts. The present writ petitioner is not an original owner and he is a subsequent purchaser. Hence, the writ petition is not maintainable either by law or on fact, hence, it is liable to be dismissed in limine. The respondents submit that the petitioner herein filed the present writ petition without including the necessary parties of

(1) CMDA - Chennai Metropolitan Development Authority, Thalamuthu Natarajan Building No.1, Gandhi Irwin Road, Egmore, Chennai, (2) The Special Tahsildar (Land Acquisition), Tamil Nadu Housing Board, Nandanam, Chennai, (3) The Executive Engineer, Tamil Nadu Electricity Board, Chennai, (4) The Commissioner, Tambaram Municipality, Tambaram, Chennai and (5) The Ahsildar, Tambaram, Kancheepuram District. Therefore, the present writ petition is liable to be dismissed for non-joinder of necessary parties.

14. The respondents further submit that the land comprised in S.No.283/1 admeasuring 0.27 acre, S.No.284/1 admeasuring 0.70 acre, S.No.284/3 admeasuring 0.64 acre and S.No.284/2 admeasuring 0.65 acres totally 2.26 acres of Tambaram Village, Tambram Taluk, Kancheepuram District was acquired under the Land Acquisition Act for the implementation of the Housing Scheme, viz., "Tambaram Neighbourhood Scheme". The respondents further submit that the 4(1) Notification under the Land Acquisition Act was approved by the Government in G.O.Ms.No.826 of Housing and Urban Development Department, dated 15.05.1978 for an extent of 58.59 acres and the substance was published in the Tamil Nadu Government Gazette dated 07.06.1978. Subsequently, the Draft Declarations under Section 6 and Direction 7 of the said Act was approved by the Government in G.O.Ms.No.389 Housing & Urban Development Department, dated 06.06.1981 and same substance was published in Tamil Nadu Government Gazette dated 06.06.1981. The Land Acquisition Officer passed award for the land in S.Nos.283/1, 284/1 and 284/3 measuring an extent of 0.27 acres, 0.70 acres and 0.64 acres respectively vide Award No.14/1983, dated 28.06.1983 and for S.No.284/2 in an extent of 0.65 acres, vide Award No.11/1986 dated 14.08.1986. The possession of land in S.Nos.283/1, 284/1 and 284/3 was taken over by the Tamil Nadu Housing Board from the Land Acquisition Officer on 21.07.1983 and possession of the land in S.No.284/2 was taken over on 21.10.1986. The ownership and possession of the lands are vested with the Tamil Nadu Housing Board.

15. The respondents further submit that Award No.11/1986, dated 14.08.1986 and Award No.14/1983 dated 28.06.1983 and the possession of the land are taken by the Government of Tamil Nadu and handed over to the Tamil Nadu Housing Board on 21.07.1983 and 21.10.1986. However, the petitioner herein is the subsequent purchaser of undivided share of 1175 sq.ft. alone in the year of 2009, vide sale deed document No.515/2009, dated 02.02.2009. Therefore, he cannot seek declaration for the entire 2.26 acres in Survey Nos.283/1, 284/1, 284/2 and 284/3. The respondents further submits that the writ petitioner is not an original owner and the writ petitioner has no locus standi to claim rights under Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Therefore, the present writ petition is not having any title and right over

the Survey Nos.283/1, 284/1, 284/2 and 284/3 situated at Old State Bank Colony, third street, West Tambaram, Chennai - 600 045. Hence, the present writ petition is liable to be dismissed for misrepresentation and suppression of real facts. The respondents further submit that the writ petitioner is subsequent purchaser and he is not coming under the category of Section 3(r)(i): "land owner" define as: "Whose name is recorded as the owner of the land or building or part thereof, in the records of the authority concerned" and Section 3(x)(i): "person interested" means "all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act." Therefore, the petitioner herein cannot challenge the acquisition proceedings at the belated stage without any valid title and rights over the acquired property. The respondents further submit that as per the revenue record, the original owners are as follows:-

Sl. No.	Name of the Registered Owner	Survey No.	Extent	Remarks
1	A.E.Kothandarama Mudaliar	283/1	27 cents	
2	A.E.Kothandarama Mudaliar	284/1	70 cents	
3	Kuppammal	284/3	64 cents	
4	Chandran Mahalingam Arumugam Jothi Sugunadevi Loganathan Duraismy	284/2	65 cents	
		Total	2.26 Acres	

The respondents further submit that as per the statement of the Land Acquisition Officer, Unit-V, Tamil Nadu Housing Board Schemes, that the compensation amount made to the ex-land owner for the land in S.Nos.283/1, 284/1 and 284/3. However, the present writ petitioner herein has purchased the Flat No.G, Rohini Block, Second Floor, Nakshatra, Old State Bank Colony, 3rd Street, West Tambaram, Chennai vide document No.515 of 2009 dated 02.02.2009 in the Sub Registrar Office, Tambaram from Mr.V.Chandrasekaran represented by his Power Agent Mehul H.Doshi, who is no way connected to the property and he is not even ex-land owner. Therefore, the said sale deed transaction would not confer any right and title to the writ petitioner herein and the same is null and void. Further, the writ petitioner herein has failed to get the "No Objection Certificate" from the Tamil Nadu Housing Board before purchasing the property. Hence, the principle of "caveat emptor" failure to the exercise and due diligence before the purchase of the property.

16. The respondents further submit that the petitioner has purchased the property from a stranger, without getting any proper permission from the Tamil Nadu Housing Board. Therefore, the writ petitioner has no right to claim any remedy against the Tamil Nadu Housing Board. Further, the petitioner herein is entitled to work out the remedy through the civil Court as against the vendor, who alienated the property. The respondents further submit that the batch of writ petitions filed for challenging the Land Acquisition in Tambaram Village vide W.P.No.9142 of 1983 etc., were allowed vide common judgment dated 16.12.1983 by this Court, quashing the Draft Declaration under Section 6 of the Land Acquisition Act leaving 4(1) Notification intact. The landowners filed W.A.Nos.214/1984 to 225/84 and 435/84 against this Court order dated 16.12.1983 in W.P.No.9142 of 1983 etc. The Hon'ble Division Bench of this Court quashed the 4(1) Notification on the ground of delay in publishing the locality notice, in its order dated 20.03.1985. The Government has preferred an Appeal before the Hon'ble Supreme Court of India against the orders of this Court dated 20.03.1985 and the same was also dismissed on 06.05.1992 and upheld the orders of this Court. It is pertinent to state that land bearing in S.Nos.283/1, 284/1, 284/2 and 284/3, which are the subject matter of the present writ petition are not covered in W.P.No.9142 of 1983 etc., batch cases. Hence, the orders passed therein are not applicable to the land in S.No.283/1, 284/1 284/2 and 284/3. Further, another batch of writ petition's vide W.P.N.7645 of 1996 etc. relied upon by the petition's herein, also does not pertain to the land in S.Nos.283/1, 284/1, 284/2 and 284/3.

17. The respondents further submit that the Tamil Nadu Housing Board in its D.O.Letter No.L.A.1(4)/37549/2005, dated 22.12.2009 to the Chennai Metropolitan Authority it was stated that no "No Objection Certificate" was issued for the said survey numbers and the writ petitioners have no right to get a planning permit. Therefore, it was requested to immediately arrange for stoppage of construction in the said land. Further, it was stated that the property in Survey No.284/2 stands registered in the name of the Housing Board in the Town Survey records. Based on such communication, the CMDA informed the Housing Board, by letter dated 11.03.2010, stating that show cause notice has been issued for cancellation of the planning permit. Further, the Tahsildar, Tambaram, by proceedings No.Na.Ka.No.20996/09-10, dated 26.03.2010, informed the Board that the lands in the said survey numbers stood transferred in the name of the Tamil Nadu Housing Board in the revenue records. Therefore, it is submitted that those who are said to have purchased the property are attempting to unsettle the well settled matters, when awards have been passed way back in 1983/1986. That apart, the petitioner has indulged in activities inconsistent with law presumably in collusion with some insiders and therefore, they are not entitled for any relief. The

respondents further submit that the Land Acquisition process under Act No.1 of 1894 shall be deemed to have lapsed in certain cases:-

"Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894:-

(a) Where no award under Section 11 of the said land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply: or

(b) Where an award under said Section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in Sub-Section (1), in case of Land Acquisition Proceedings initiated under the Land Acquisition Act, 1894, where an award under the said Section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid in the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provision of this Act.

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under Section 4 of the Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act."

Therefore, the the new Act is very clear, once Award is made, then such proceedings shall continue and the said Act could not be repealed. Further, all beneficiaries specified in the notification for acquisition under Section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act. However, in the present case, Award No.11/1986 dated 14.08.1986 and Award No.14/1983 dated 28.06.1983 and the possession of the land are taken by the Government of Tamil Nadu and handed over to the Tamil Nadu Housing Board on 21.07.1983 and 21.10.1986. Therefore, the petitioner herein has purchased the land in the year 2009, after the Award enquiry. Hence, the petitioner cannot make any claim under Section 24(2) of the New Act and he cannot claim

any compensation from the Tamil Nadu Housing Board.

18. The respondents further submit that the flat owners have sent the representation dated 01.10.2012 stating that they are innocent / bonafide purchasers having purchased the flat and requested to allot the land and agreed to pay the land cost as fixed by the Government was already considered by the Board and the same was rejected. The SLP filed before the Hon'ble Supreme Court of India (Civil Appeal Nos.6342 and 6343 of 2012) by V.Chandrasekaran & Others was dismissed on 18.09.2012, with the following direction:-

"The aforesaid conclusions do not warrant any relief to the appellants. The appeals are dismissed with the costs of rupees Twenty five lakhs, which the appellants are directed to deposit with the Supreme Court Legal Service Authority within a period of six weeks."

As per the above direction of the Hon'ble Supreme Court of India, Tamil Nadu Housing Board is trying to remove the existing structures through the Board Resolution No.8.06, dated 27.12.2012. Subsequently, the other flat owners have filed the writ petition in W.P.Nos.2222 of 2013 and 1532 of 2013 filed by C.Durairaju & others and obtained interim order under suppression of facts and the same is extended until further orders on 06.03.2013 and both the writ petitions are still pending before this Court for further proceedings. However, the counters filed in W.P.No.1532 of 2013 and 2222 of 2013 and the petition for vacating interim orders, may be considered as part and parcel of the present writ petition. Further, the builder and the flat owners have deliberately encroached the Government land without any valid title. Hence, the Tamil Nadu Housing Board have no other option, except to evict the encroachers and they must realize as "dura lex sed lex" - "the law is hard, but it is the law". Further, they cannot say as "we are the innocent purchasers." Therefore, the ignorance of law is not an excuse. The respondents further submit that the contention of the petitioner is against the truth. The subject land of 2.26 acres has access to the flats construction in the above land and the existing road. The petitioner has purchased the flat constructed in the above land. The petitioner's vendor was not competent to make any transfer, as none of them had good title over the land in question. Therefore, any and all sale transactions are illegal and void. The sale deeds executed in favour of the petitioners do not confer upon them any rights and title over the property. Therefore, the writ petition is liable to be dismissed as devoid of merits and on the ground of locus-standi. Further, the Hon'ble Supreme Court had already well settled the issue. Therefore, nothing survives in the matter, except to evict the encroacher from the Government land. "It is settled law that any person who purchases land after publication of notification under Section 4(1), does so at his/her

own peril. The objections of publication of the notification under Section 4(1) is notice to everyone that land is needed or is likely to be needed for public purpose and the acquisition proceedings points out an impediment to anyone to encumber the land acquired thereunder. It authorizes the designated officer to enter upon the land to preliminaries etc. Therefore, any alienation of land after the publication of the notification under Section 4(1) does not bind the Government or the beneficiary under the acquisition. On taking possession of the land, all rights, titles and interests in land stand vested with the State, under Section 16 of the Act, free from all encumbrances and thereby absolute title in the land is acquired thereunder. If any subsequent purchaser acquires land, his/her only right would be subject to provisions of the Act and or to receive compensation for the land."

19. The respondents further submit that in the latest judgment of CDJ 2010 MHC 4993 (Mary Jacob & Another versus The Government of Tamil Nadu, Chennai & Others, the Hon'ble High Court held that:-

"In the light of the decisions cited supra, petitioner has no right to content that the notification under Section 4(1) and the declaration made under Section 6 of the Land Acquisition Act, having been set-aside by this Court on the ground of vagueness, petitioners have become owners of the land and they are entitled to get patta from the Tahsildar and NOC from the Tamil Nadu Housing Board. The learned Advocate General submitted that the Housing Board having been in possession as early as on 30.10.1986, the petitioners have no locus standi to demand patta and NOC for the land, which has already vested with the TNHB, which has not been divested and re-conveyance is also not possible as per the decision of the Hon'ble Supreme Court reported in (2010) 2 SCC 786 (Tamil Nadu Housing Board Vs. L.Chandrasekar). In paragraph 29, the Hon'ble Supreme Court held thus,

"29. We may notice the judgment of this in T.N.Housing Board Vs. Keeravani Ammal (2007) 9 SCC 255. The question considered in that case whether the Division Bench of the High Court could direct release of the acquired land which had been transferred to the appellant Board. While setting aside the impugned order, this Court observed: (SCC pp.261-62, paras 13-16)"

It is clearly pleaded by the State and the Tamil Nadu Housing Board that the scheme had not been suspended or abandoned and the lands acquired are very much needed for the implementation of the scheme and the steps in that regard have already been taken. In the light of this position, it is not open to the Court to assume that the project has been abandoned merely because another piece of land in adjacent village had been released from acquisition in the light of

orders of the Court. It could not be assumed that the whole of the project had been abandoned or has become unworkable. It depends upon the purpose for which the land is acquired. As we see it, we find no implement in the lands in question being utilized for the purpose of putting up a multi-storied building containing small flats, intended as a public purpose when the acquisition was notified. Therefore, the High Court clearly erred in proceedings as if the scheme stood abandoned. This was an unwarranted assumption on the part of the Court, which has no foundation in the pleadings and the materials produced in the case. The Court should have at least insisted on production of materials to substantiate a claim of abandonment. The said position is reiterated in the Hon'ble Supreme Court decision reported in 2014(4) CTC 724 (May George versus Special Tahsildar) wherein in para 27, the Hon'ble Supreme Court held as follows: "In fact, the land vests in the State free from all encumbrances when possession is taken under Section 16 of the Act. Once land is vested in the State, it cannot be divested even if there has been some irregularity in the acquisition proceedings...". Therefore, the learned Additional Advocate General is right in his submissions. Section 3 of the Tamil Nadu Patta Pass-Book Act, 1983 (Tamil Nadu Act 4 of 1986) mandates issue of patta by the Tahsildar to the owner of the land. The petitioners not being the owners of the land on and after 30.10.1986, they are not entitled to get patta in their favour. No case is made out for the interference with the order passed by the Tahsildar and no case is made out to issue direction to the Tamil Nadu Housing Board to give NOC to the petitioners for getting planning permission as the petitioners are no longer owners of the land as the land is owned by the Tamil Nadu Housing Board. The writ petitions are dismissed. No costs."

20. The respondents further submit that the writ petitioner is not an original owner. Further, the Award was passed in favour of the original landowner. Subsequently, the petitioner herein deliberately re-possessed the acquired land and trying to alienate the land to third parties and the same intentionally suppressed before this Court. Therefore, after creating third party interest on the land, the writ petitioner cannot maintain the writ petition and by claiming rights over the property. The respondents further submit that the prayer in the writ petition itself has become infructuous, the request of the writ petitioners was already placed before the Board and Board in its Resolution No.8.06 dated 27.12.2012 resolved to issue eviction notice to the encroacher. If the writ petitioners are aggrieved by the decision of the Board, they have to challenge the decision separately and cannot compel the Tamil Nadu Housing Board to consider the issue. On these grounds alone, the writ petition is liable to be dismissed. The respondents further submit that the averment made in paragraph 2 is denied and the petitioner herein is subsequent purchaser, after the Award of compensation. Hence, he cannot claim

right under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The respondents further submit that the averment made in paragraph 3 is denied and that the W.P.No.2222 of 2013 and W.P.No.1532 of 2013 have been filed by the other owners, after the order dated 18.09.2012 in Civil Appeal Nos.6342 and 6343 of 2012, on the file of Hon'ble Supreme Court . Therefore, the other flat owners intentionally filing writ petition after writ petitioner, is nothing but abuse of process. The respondents further submit that the averment made in paragraph No.4 is denied, that the writ petitioner and other flat owners have purchased the flats from the strangers, without getting proper permission and "No Objection Certificate" from the Government and TNHB. Therefore, the writ petitioner has no right to claim any right from the TNHB and his claim only against builder, who sold the property. The respondents further submit that the averment made in paragraph No.5 is denied, that the planning permission was obtained by the builder from CMDA by suppression of real facts, even in the pendency of the writ petitions and deliberately constructed further, without the consent and knowledge of the Tamil Nadu Housing Board. Further, the CMDA was not included as party in the present proceedings. The respondents further submit that the averment made in paragraph No.6 is denied. As per the sale deed document No.515/2009, dated 02.02.2009 enclosed in the Page No.10, that the said undivided share has been alienated and registered in the name of the writ petitioner only in the year 2009. Further, that the registration of sale deed is executed during the pendency of the writ petition in W.P.Nos.6108/2009 and 20896 of 2009. Hence, the registration of sale deed, would not confer any right and title over the Government property.

21. The respondents further submit that the averment made in paragraph No.7 is denied. As per the revenue record, that the possession of the lands were already taken and handed over to the Tamil Nadu Housing Board on 21.07.1983 and 21.10.1986 for implementation of Housing Scheme, since, the possession and title is vested with the Tamil Nadu Housing Board. As per the Hon'ble Supreme Court's decision, the flat owners have been declared as encroachers. Therefore, the writ petitioner and other flat owners cannot claim any right over the Government property under Section 24(2) of the New Act. The respondents further submit that the averments made in paragraph Nos.8 and 9 are denied and the writ petitioner, other flat owners have not purchased the flat from the original owners and the same were purchased from a stranger without the consent and knowledge of the Tamil Nadu Housing Board. Therefore, all the alleged execution of sale deed would not confer any right and title over the Government property. The respondents further submit that the averment made in paragraph Nos.10,11,12,13,14,15 and 16 are denied. The writ petitioner herein has purchased the flat No.G, Rohini Block, Second Floor, Nakshatra,

Old State Bank Colony, 3rd Street, West Tambaram, Chennai-45, vide Document No.515 of 2009, dated 02.02.2009 in the Sub Registrar Office, Tambaram from Mr.V.Chandrasekaran, represented by his Power Agent Mehul H.Doshi, who is no way connected to the property and he is not even ex-landowner. Therefore, the said sale deed transaction would not confer any right and title to the writ petitioner herein and the same is null and void. Further, the writ petitioner herein has failed to get the "No Objection Certificate" from the Tamil Nadu Housing Board before purchasing the property. Hence, the principle of "caveat emptor" failure to exercise due diligence before the purchase of property. Further, the writ petition is filed without including the necessary parties, viz., (1) CMDA - Chennai Metropolitan Development Authority, Thalamuthu Natarajan Building No.1, Gandhi Irwin Road, Egmore, Chennai, (2) The Special Tahsildar (Land Acquisition), Tamil Nadu Housing Board, Nandanam, Chennai, (3) The Executive Engineer, Tamil Nadu Electricity Board, Chennai, (4) The Commissioner, Tambaram Municipality, Tambaram, Chennai and (5) The Ahsildar, Tambaram, Kancheepuram District. Therefore, the present writ petition is liable to be dismissed for non-joinder of necessary parties.

22. The respondents further submit that the averment made in paragraph No.17 is denied. As per the submission made by the petitioner herein, that the CMDA has issued the completion certificate dated 23.02.2011. However, that the CMDA approval was obtained by misrepresentation through the fabricated documents. Further, the Civil Appeal Nos.6342 and 6343 of 2012 was disposed by the Hon'ble Supreme Court of India on 18.09.2012 after perusal of entire documents. Therefore, the completion certificate issued by the CMDA is not at all valid. The respondents further submit that the averment made in paragraph Nos.18 to 29 are sham and nominal, that the writ petitioner and the other flat owners have purchased the property from a stranger, without the consent and No Objection Certificate from the Tamil Nadu Housing Board. Further, the sale deed documents executed during the pendency of the writ petition and writ appeal. Further, the flat owners have not obtained any proper legal opinion from the Government particularly Government of Tamil Nadu. The respondents further submit that the writ petitioner herein is making several allegations against the respondents, without any valid documentary proof and the same is strongly denied. Further, the writ petitioner and other landowners have deliberately purchased the Government land without getting proper permission from the competent authorities, the said alienation of sale deed executed to the third parties, during the pendency of the writ and writ appeal proceedings. It is nothing but abuse of process of law.

Sl.No.	Description	Particular	Remarks
1	Scheme	"Tambaram Neighbourhood Scheme"	
2	Name of the original owner	1.A.E.Kothandarama Mudaliyar 2.Kuppammal 3.Chandran 4.Mahalingam 5.Arumugam 6.Jothi 7.Sugunadevi 8.Loganathan 9.Duraisamy	
3	Survey No.	S.Nos.283/1, 284/1, 284/2 and 284/3	
4	Extent for the present writ petition	1175 sq.ft.	
5	Date of 4(1) Notification	G.O.Ms.No.826, dated 15.05.1978 for an extent of 58.59 acres	
6	Award Nos. & Date	(1) Award No.11/1986 dated 14.08.1986 (2) Award No.14/1983 dated 28.06.1983	
7	Possession taken and handed over to Tamil Nadu Housing Board on	21.07.1983 an 21.10.1986	
8	Writ petition filed by Chandrasekaran	W.P.No.6108 of 2009 W.P.No.2096 of 2009	
9	Writ Appeal filed by the Tamil Nadu Housing Board	W.A.No.805 and 806 of 2011	
10	Civil Appeal filed by V.Chandrasekar	Civil Appeal Nos.6342 and 6343 of 2012	
11	Board Resolution B.R.No.8.06, dated 27.12.2012	As per the Supreme Court of India, B.R.No.8.06 dated 27.12.2012, was evolved to issue notice to the encroachers to vacate the premises	

Sl.No.	Description	Particular	Remarks
12	Special Officer inspected the Site	The Superintendent Engineer, Special Officer Project Circle-I was appointed as Special Officer who also inspected the sit on 13.03.2014 and furnished a detailed investigation report to the TNHB	
13	W.P.No.1532 of 2013 by K.V.Srivatsan	filed and obtained the interim injunction	
14	W.P.No.2222 of 2013 C.Durairaj and others	filed and obtained order of interim injunction	
15	Present writ petition of W.P.Nos.30835 of 2014	filed and obtained order of interim injunction on 25.11.2014	

The respondents further submit that the subject matter is already argued before Hon'ble High Court of Madras and Hon'ble Supreme Court of India. After, proper perusal of records and ascertaining the present status of possession etc., Hon'ble Supreme Court of India has clearly declared as that the entire acquisition proceedings is valid and the subsequent purchasers have no right, they have occupied the Government land without any valid rights and title. They should be evicted from the Government land. Therefore, the Government of Tamil Nadu and Tamil Nadu Housing Board have no other option, except removing the encroachment as directed by the Hon'ble Supreme Court of India, order dated 18.09.2012. The respondents further submit that the flat owners have voluntarily purchased the flats from the builder at lower price than market price, even after sufficient knowledge about the said acquisition proceedings and possession of the land is vested with Government and TNHB. It is amounting to "Volenti non fit injuria" - Damage suffered by consent is not a cause of action. The respondents further submit that the writ petitioner and other flat owners are mere encroachers and they have no right on the Government land and the same clearly declared in the Civil Appeal Nos.6342 and 6343 of 2012 before Hon'ble Supreme Court of India. Therefore, the writ petitioner herein and other flat owners are bound to obey the order of the Hon'ble Supreme Court of India. Hence, the respondents entreat the Court to dismiss the above writ petition.

23. The highly competent Senior Counsel Mr.K.M.Vijayan appearing for the petitioner submits that the petitioner has purchased the plot by obtaining bank loan. The Bank Authorities especially, the Legal Officer had verified the entire title deeds

over the said plot. After scrutinizing the entire title deeds over the said property belonging to the petitioner, the Bank Authorities had arrived at the conclusion that the petitioner is possessing marketable title deeds over the said plot. From the date of purchase i.e., 02.02.2009, he is in occupation of the said property and enjoying the same. The highly competent senior counsel further submits that the Chennai Metropolitan Development Authority had issued a building plan for construction of flats after due verification. The highly competent senior counsel further submits that the Tamil Nadu State Electricity Board had provided a new electricity service connection to the said premises which is standing in the name of the petitioner and his wife. Before providing electricity service connection, the authorities of Electricity Board had also scrutinized the relevant documents pertaining to the plot of the petitioner besides physical verification. After full satisfaction by the Electricity Board Authority, the new service connection bearing No.09-250-469-1494 has been issued in the name of the petitioner and his wife. Further, the Taluk Tahsildar, who is attached to the Revenue Taluk Officer, Tambaram had issued patta in the name of the petitioner and his wife. Further, the patta had been issued after due verification with the Revenue records besides the relevant documents of the petitioner. It clearly proves that the subject matter of the land had not been mutated in the name of the Tamil Nadu Housing Board. The Tambaram Municipality had provided basic amenities viz., road formation, water supply connection and drainage connection. The highly competent senior counsel further submits that the Tambaram Municipality has been collecting tax regularly from the petitioner for the above mentioned amenities.

24. The highly competent senior counsel appearing for the petitioner further submits that all the statutory authorities of the State have authorized that the petitioner and his wife are absolute owners of the individual share of 579.258 sq.ft and the constructed area of the plot. Therefore, the innocent petitioner shall not be evicted. Further, it is an admitted fact that the petitioner has constructed a flat and residing therein. Therefore, the petitioner is entitled to secure remedy under Section 24(2) of the New Act. The highly competent counsel further submits that for proving his occupation, the revenue record stands in the name of the petitioner. The petitioner is the absolute owner of his respective share of land to an extent of 2.26 acres situated at Old State Bank Colony. The original owner had duly executed a sale deed regarding the undivided share of the lands which had been registered on the file of the Sub Registrar's Office after paying full sale consideration. The highly competent senior counsel further submits that the petitioner had purchased the plot after seeing the advertisement in the press media and also inspected the premises, wherein many workers were involved in the construction work. This situation clearly proves that one V.Chandrasekaran is

the owner of the property and the construction was proceeding under his direction. The petitioner had purchased the said property after due verification of the title deeds and after verifying the patta, chitta and adangal. As such, the petitioner has come to the conclusion that the said Chandrasekaran who is the absolute owner of the property. The same was confirmed by the legal Advisor of the Bank and granted the housing loan. Likewise, Tambaram, Chennai Metropolitan Development Authority, Revenue Authority and Electricity Board confirmed the same. Now, the Bank Authority is also having rights over the said property since they have granted loan for the said property.

25. The highly competent Additional Advocate General Mr.S.Gomathinayagam assisted by Mr.V.Shanmugasundar, highly competent Government Advocate appearing for the first respondent submits that the seller, viz., Mr.V.Chandrasekaran, who is not the owner of subject land of the property, but he had executed a forged sale deed in favour of the petitioner and as such, the sale deed is not sustainable under law. The highly competent Additional Advocate General further submits that the first respondent had issued a G.O. for acquiring the lands to an extent of 58.59 acres at Tambaram Village including the subject matter of the land. The Land Acquisition Proceedings had been initiated in the year 1978 and after observing all legal formalities, the entire lands have been acquired for the Neighbourhood Scheme. Now, the petitioner is seeking remedy under the invalid sale deed, therefore the above writ petition is not maintainable. The properties had been acquired from the original owner and the compensation also paid to them. The so-called landowner, viz., V.Chandrasekaran had been imposed a cost of Rs.25,00,000/- by the Hon'ble Supreme Court of India besides the Hon'ble Supreme Court had directed the Chief Secretary of Tamil Nadu to examine the issues involved in the case and find out as to who where the officials of the State or the Board responsible for the loot of public properties and to proceed against them in accordance with law. As such, the statutory authorities viz., Tambaram Municipality, Tambram Revenue Taluk Office, Electricity Board officer, Chennai Metropolitan Development Authorities and also Bank Officials who have authorized the petitioner as owner in an erroneous view and granted necessary assistance and authorization. The highly competent Additional Advocate General further submits that the petitioner's occupation is an unlawful one. Further, all the issues arising from the instant case have been decided by the Hon'ble Apex Court. The highly competent Additional Advocate General in support of his contentions has cited the following judgment:-

V.CHANDRASEKARAN v. ADMINISTRATIVE OFFICER reported in (2012) 12 Supreme Court Cases 133

"A. Public Accountability, Vigilance and Prevention

of Corruption - Misfeasance in public office - Probe ordered - Appellants and officials of State or Development Board conniving to enable appellants to grab / encroach upon public land i.e., acquired land and to falsify documents so as to construct flats thereon - Chief Secretary of State directed to trace out such officials and to take suitable action against sub officials.

B. Land Acquisition Act, 1894 - Ss.16,17,23 and 48 - Claim for reconveyance of acquired land on any ground whatsoever to original owner after it has vested in State - Incapacity of State to entertain such claims.

C. Land Acquisition Act, 1894 - Ss.4(1), 6, 9 and 23 - Alienation of land subsequent to issuance of notification under S.4(1) - Subsequent purchaser challenged acquisition proceedings - Impermissibility of, due to voidness of title.

D. Land Acquisition Act, 1894 - Ss.5-A, 6, 16, 17, 18 and 23 - Quashment of acquisition proceedings - Persons entitled to benefit of - Quashment not to operate for benefit of non-objectors i.e., persons who had not raised objections under S. 5-A and/or persons who had accepted compensation and not challenged the same - Extension of benefit of quashment to persons who were not parties to earlier proceedings or non-objectors, especially when land has come into possession of State before quashing of declaration - Non-objector challenging acquisition proceedings at belated stage - Permissibility of - Constitution of India, Art.300-A.

E. Land Acquisition Act, 1894 - Ss.4(1), 5-A, 6, 16, 17, 48 and 16-A (ins. by State of Tamil Nadu) - Reconveyance of acquired land - Appellants purchasing land in question (suit land) subsequent to completion of acquisition proceedings upon acceptance of compensation and handing over of possession to State authorities by original landowners - Appellants claiming reconveyance on basis of quashment of acquisition proceedings in respect of other portions of the acquired lands but which quashment clearly excluded acquired suit land - Said appellant purchasers seeking inconsistent reliefs and activities on part of such purchasers resulting in fraud on authorities and courts resulting in abuse of judicial process - Disentitlement to relief - Appeals dismissed with exemplary costs of Rs.25 lakhs - Supreme Court Rules, 1966, Or.41 Rr.1 & 3."

26. The highly competent counsel Mr.B.Vivekavanan appearing for the respondents 2 to 4 submits that the writ petitioner is not an original owner and he is a subsequent purchaser and as such, the writ petition is not maintainable. The highly competent counsel further submits that the petitioner stated that he had obtained building plan, electricity service connection, water connection and patta, therefore, the concerned authorities are necessary parties in the instant case, but they have not been impleaded as necessary parties. However, the sale deed is not valid since it was not executed by the original owner of the property. The Land Acquisition Proceedings had been initiated in the year 1978 for acquiring the land to an extent of 58.59 acres for Neighbourhood Housing Scheme at Tambaram including the subject matter of the land. After observing necessary legal formalities as per the Old Act, the lands have been acquired. Thereafter, the award had been passed in the year 1986 and possession was taken. Thereafter, the Tamil Nadu Housing Board occupied the property for the said purpose. The petitioner had purchased undivided share to an extent of 1175 sq.ft. under a registered sale deed dated 02.02.2009. Therefore, the said sale deed is not valid since the property is belonging to the Tamil Nadu Housing Board. The petitioner is seeking remedy under Section 24(2) of the New Act, which is not appropriate since the petitioner is not the owner of the property. Actually, the land to an extent of 2.26 acres is belonging to 10 persons but not in the name of the petitioner. The petitioner had purchased the said property from Mr.V.Chandrasekaran, who is not connected with the said property and as such, the sale deed is not valid under law. The sale deed had been executed by a stranger and therefore, on the strength of the said sale deed, the petitioner has no right to claim any civil rights over the said property. Further, the landowners had challenged the Land Acquisition Notification before this Court and had lost their case. Now, the petitioner has no locus standi to file the above writ petition on the same original cause of action. After, acquiring the entire lands all the records had been mutated in the name of Tamil Nadu Housing Board. Now, the Revenue Thasildar, Tambaram and the CMDA have issued notices to the petitioner for cancelling the patta proceedings and building permit. Therefore, the above writ petition is not maintainable. Hence, the highly competent counsel entreats the Court to dismiss the writ petition since the petitioner made wrong entries and occupied the property, which amounts to unlawful occupation.

27. From the above discussions, this Court is of the view:-

(i) The respondents had initiated Land Acquisition Proceedings under the Old Act for acquiring the lands to an extent of 58.59 acres for the Neighbourhood Housing Scheme in the year 1978 at Tambaram Village including the subject matter of the lands

to an extent of 2.26 acres. The Land Acquisition Proceedings were completed in the year 1983 and possession was taken over by the Tamil Nadu Housing Board from the Land Acquisition Officer in the year 1983 and Award was also passed in the year 1986. After a lapse of around 30 years, the Neighbourhood Housing Scheme had not been implemented. As such, there is a lapse on the side of the respondents for executing their aims and objects i.e., they failed to provide house-sites to the house less general public. As such, the acquisition proceedings have become defunct and placed in oblivion.

(ii) The Chennai Metropolitan Development Authority had issued planning permission dated 16.03.2007 and on the strength of the said planning permission, the building has been constructed. Thereafter, the statutory authorities viz., the Chennai Metropolitan Development Authority had issued a final completion certificate dated 23.02.2011 and copies of completion certificate had been served to the second respondent herein and the Commissioner, Tambaram Municipality. These proceedings are operating and existing.

(iii) The Commissioner, Tambaram Municipality had issued authorization for constructing the said building after collecting mandatory charges and thereafter provided water connection and drainage to the said property comprised in Survey Nos.282/1B, 2B, 2A2, 1C1, 2C1, 2D2, 284/1B, 2, 3, 4B, 283/3B of Tambaram Village. As such, the basic amenities had been provided to the constructed plots.

(iv) The Tahsildar, who is attached to the Tambaram Taluk Office had issued patta in the name of V.Chandrasekaran and the same is existing. Besides, the petitioner herein and his wife had obtained an electricity service connection from the Tamil Nadu Electricity Board. After scrutinizing the relevant records pertaining to the said property, which is operated and in force, Tambaram Municipality is also collecting tax periodically. All mandatory requirements had been meticulously adhered to.

(v) The second, third and fourth respondent's contention that the Land Acquisition Officer had acquired the subject matter of the lands under the Old Act and handed over the acquired lands to the Housing Board in the year 1983. If the said acquired lands are vested with the Tamil Nadu Housing Board and under their supervision since 1983, then how was it possible for any private construction taking place in their premises for days on end, therefore, it is obvious that the acquired land is not within the care and custody of the Tamil Nadu Housing Board, which indicates a grave lapse of supervision and overall authority.

(vi) The highly competent senior counsel Mr.K.M.Vijayan

has pointed out that the petitioner herein had applied for a loan from the Nationalized Bank for purchasing the said property after fulfilling the legal requirements and the Bank is also having rights over the said property till the discharge of the said loan as per Banking Rules and Regulations. Further, the petitioner had verified title deeds and inspected the physical possession and purchased the property and also similar observation had been adopted by the Nationalized Bank. Therefore, there is no fraudulent act on the side of the petitioner herein. This Court accepts the learned Senior counsel's view that the purchaser is an innocent person going about all his endeavours in a righteous manner.

(vii) The Land Acquisition Officer had acquired the lands under the Old Act and handed over the same to the respondents 2, 3 and 4 for implementing the Neighbourhood Scheme in the year 1983 and as such, the respondents are having a prima facie case.

(viii) However, considering the current prevailing situation, the petitioner occupied a portion of the plot and enjoying the same after obtaining necessary amenities such as water connection, drainage connection, electricity service connection and road formation, out of his hand earned money. Under the circumstances, if the petitioner is evicted from the premises, the petitioner will be put into hardship and irreparable loss. Conversely, the respondents will not be put into irreparable loss if they are permitted to recover the admissible land cost from the building promoter viz., Mr.Mehul H.Doshi.

(ix) The balance of convenience i.e., social justice rests on the side of the petitioner since the aim and object of the respondents to provide house sites to the house-less general public and as such, the petitioner is also one of the houseless general public. Therefore, two important principles accrue on the side of the petitioner and hence, the above writ petition becomes appropriate for permissibility. Basically, he has been in possession of the land for time memorable.

28. On considering the facts and circumstances of the case and arguments advanced by the highly competent counsels on all sides and on perusing the typed set of papers and the view of this Court as mentioned above (i) to (ix), the above writ petition is allowed. Consequently, this Court declares that pursuant to Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 30 of 2013, the Land Acquisition Proceedings of the respondents notification in G.O.No.826, dated 15.05.1978 has lapsed in respect of lands to an extent of 2.26 acres comprised in Survey Nos.283/1, 284/1, 284/2 and 284/3 situated at Old State Bank Colony, 3rd Street, West Tambaram, Chennai - 600 045 and the superstructure thereon. Further, the respondents are permitted to re-convey the said

amounts either from the building promotee viz., Mehul H.Doshi or from the occupants mentioned in the representation dated 01.10.2012 addressed to the first respondent herein at admissible costs.

29. In the result, the above writ petition is allowed. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

r n s

To

- 1.The Secretary,
Government of Tamil Nadu,
Housing and Urban Development,
Fort St. George,
Chennai - 600 009.
 - 2.The Managing Director,
The Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.
 - 3.The Chairman,
The Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.
 - 4.The Executive Engineer and
Administrative Officer,
K.K.Nagar,
Tamil Nadu Housing Board,
Chennai - 600 083.
- 1 cc to Mr.A.Vivin ,Advocate, SR.No.2954
1 cc to Mr.B.Vivekavanam,Advocate, SR.No.2929
1 cc to Government Pleader,Sr.No3141

W.P.No.30835 of 2014 &
M.P.No.1 of 2014

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