

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON 22/12/2014

DATED: 03/03/2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.9986 of 2014

&

M.P.Nos.1 and 2 of 2014

K.S.Palaniappan

...Petitioner

Vs.

1. State of Tamil Nadu,
Rep. by its Secretary,
Housing & Urban Development Ministry,
Fort St. George,
Chennai - 600 009.
2. The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Anna Salai,
Chennai - 600 035.
3. The Special Tahsildar,
L.A.Unit-III (General),
Tamil Nadu Housing Board Schemes,
Nandanam, Anna Salai,
Chennai - 600 035.

4. K.Anbhazhagan

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for a Writ of Certiorarified Mandamus, to call for the records relating to acquisition proceedings of the respondents 1 to 3 in pursuant to the Notification issued under Section 4(1) of the Land Acquisition Act, 1894 in G.O.Ms.No.1096, Housing and Urban Development Department, dated 17.07.1978 and Section 6 Declaration issued in G.O.Ms.No.667, Housing and Urban Development Department dated 06.08.1981 and the award passed in Award No.6/1986 dated 26.09.1986 so far as the petitioner's land

situated in S.No.88/9B measuring an extent of 2,400 sq.ft. in Old patta No.165, New patta No.2020 situated at Ganapathy Second Street, Avvai Nagar, Thiruvannamipur, Chennai - 600 041 and to quash the entire proceedings as lapsed and further set-aside the sale deed executed by the Housing Board in favour of the fourth respondent vide their sale deed dated February, 2011 registered as Doc.No.1981/2011 with SRO, Saidapet.

For Petitioner : Mr.N.Anand

For Respondents : Mr.M.S.Ramesh
Additional Government Pleader
for R1 & R3

Mr.V.Anandhamoorthy for R-2

Mr.C.Prakasam for R4

O R D E R

The petitioner is the owner of the property comprised in S.No.88/9B measuring to an extent of 2,400 sq.ft. and in Old Patta No.165, New Patta No.2020, situated at Ganapathy Second Street, Avvai Nagar, Thiruvannamipur, Chennai - 600 041. The petitioner submits that the Tamil Nadu Housing Board has initiated acquisition proceedings by passing G.O.Ms.No.65, dated 15.03.1971 acquiring large extent of lands in Thiruvannamipur to form Thiruvannamipur Neighbourhood and in the said Land Acquisition Proceedings, the petitioner's lands were also acquired under the same. Various writ petitions have been filed before this Court, challenging the above acquisition and the petitioner herein had challenged the acquisition of their lands by filing writ petition before this Court in W.P.No.12957 of 1986 and the same was allowed by this Court on 11.10.1991 along with the batch of cases by quashing the Land Acquisition Proceedings. The petitioner further submits that from the date of purchase, the petitioner is in possession of the property continuously and uninterruptedly without anybody interfering whatsoever till date and the old buildings which were in existence has fallen down due to the dilapidated condition since they are very old and now the property is lying vacant for the past few years. The petitioner further submits that after the Land Acquisition Proceedings were quashed, the Government has not filed any appeal against that order in time nor any notice has been served on him or received by him from any Court or no notice of any acquisition proceedings ever received by him after the quashing of the Land Acquisition Proceedings till date.

2. The petitioner further submits that one Mr.N.Rangasamy is looking after his property. On 25.07.2013, he has removed the bushes and thorns in the property and cleaned the site by using a JCB and he has purchased pillars and barbed wires and stored it in the property for the purpose of putting up a fence since public are using the property by storing the unwanted items by throwing it into the property haphazardly. All of a sudden on 28.07.2013, the fourth respondent herein sent his hooligans to their property and attempted to trespass the same with the help of accomplices by removing the pillars and barbed wires without any semblance of right or wrong. On coming to know of the attempt, he went to the property and questioned the persons gathered there as to what business for them to enter into their property without his permission. By that time, they have replied in harsh words and claimed that the fourth respondent has purchased the property and they came to measure the property on behalf of him. When he questioned them how could he has purchased their property without their knowledge and consent, they started to threaten him with dire consequences saying blood would flow if he would not go out of the place. Since he went alone fearing for his life, he left the place. Again on 29.07.2013, on receipt of information from the neighbour, he went to the place and found lot of hooligans employed by the fourth respondent who were assembled in their place and on enquiry, they threatened him to do away with his life if he interfered and questioned them. Hence, he had preferred a complaint on 31.07.2013 before Thiruvanniyur Police, after collecting information about the persons and the same was received by the Police in C.S.R.No.297/J6PS/2013 and they issued receipt to him. The petitioner further submits that the Police Authorities has called upon the fourth respondent herein and enquired about the matter by that time, the fourth respondent claimed orally that he has purchased the property from the Housing Board without furnishing any details or records. Mr.R.Rangasamy produced all their documents, patta, High Court Order to substantiate their claim. By that time, the fourth respondent collected their title documents copy and promised the Police Authorities that he would furnish his records and informed them that he would not disturb their possession. Thereafter, the fourth respondent did not turn down.

3. The petitioner further submits that on 29.11.2013 suddenly, the fourth respondent came to the site again by claiming that he is having a High Court order to put up a fence. Immediately, the petitioner lodged a complaint to the Police Authorities by the time, he produced the affidavit copy filed by him and claiming that this Court granted interim order and promised to produce order copy on following Monday. Immediately, on seeking the affidavit, they found that he has suppressed the material facts and moved the above writ petition on 29.11.2013 by way of Lunch

motion by suppressing the various instances that took place and the pendency of the Police complaint against them by impleading wrong persons without impleading them and who are proper parties and obtained interim order by making allegations against the Police Authorities and attempted to trespass again on 29.11.2013 at about 8 p.m. with hooligans armed with the help of interim order. Hence, the petitioner was constrained to file an impleading petition to implead themselves as party respondent in the writ petition as well as in the miscellaneous petition and to state their case without impleading them and hearing them to any orders passed in the writ petition would affect them and great prejudice will be caused against them which cannot be compensated by any means. Hence, he has filed a Writ Appeal against the interim orders granted in favour of the fourth respondent in W.P.No.2481 of 2013 before the Division Bench and obtained stay of the operation of the interim order granted in W.P.No.32879 of 2013 and the same is pending. In the mean time, he has approached the Housing Board by seeking information under the RTI Act to clarify the claim of the fourth respondent. In response to the RTI query, he came to understand to his shock that a fraud has been employed by the Officers of the Tamil Nadu Housing Board in knocking down his valuable property without any proper and legal proceedings and without any notice and allotted the property by way of private negotiation under discretionary quota to fourth respondent. Immediately, he has collected information to set-aside the sale. On getting information from the Housing Board Officials that he is collecting information and documents to set-aside the illegal sale made by the Housing Board in favour of the fourth respondent, the fourth respondent clandestinely filed the above stated writ petition in W.P.No.32879 of 2013 and attempted to take possession of the property illegally. They have also taken steps to set-aside the fraudulent sale executed by Housing Board in favour of fourth respondent without awarding any compensation or issuing any notice to them and thereby a fraud has been employed.

4. The petitioner further submits that on enquiry and the information gathered from the Housing Board, they found that the Housing Board has preferred an appeal against the orders passed by this Court in W.P.Nos.12957 and 12958 of 1986 in W.A.Nos.646 of 1995 and 632 of 1995 without enormous delay. There is no notice served on him at any point of time and at no stage, he was made known to the proceedings initiated against him. The Division Bench which allowed the Appeals on 16.11.1996 following Hon'ble Supreme Court Judgment has clearly recorded that in all the Appeals, steps not having been taken to serve the respondents in each of the appeals and thus it is crystal clear that notices were not served before the writ appeal at any stage, however, the Hon'ble Division Bench of this Court while allowing the appeals ex-parte has

directed the Housing Board by passing the following order. "However, we make it clear that if the writ petitioners satisfy the requirements of Resolution No.7/86, dated 02.07.1986 passed by the Housing Board, it is open to them to make an Applications seeking reconveyance of the lands covered by this buildings. In such an event, the Housing Board shall consider such request of the writ petitioners and take a decision in terms of Resolution No.7/86, dated 02.07.1986."

5. The petitioner further submits that the Housing Board has violated the above directions of the Division Bench Judgment and they have not made known to the order and release major portion of the lands to the persons on whom they are interested by sending letters only to them by picking and choosing those who have satisfied the officials. The petitioner further submits that he is not aware of the subsequent proceedings said to have been initiated by the Board after the Division Bench order and he has been kept in the dark. If notices were served on him at various stages as contemplated under the Land Acquisition Act which are mandatory in nature before passing the award, certainly, they would have been in a position to claim their right and establish their legal right. All these years, they have been kept under the dark and all proceedings have taken place behind their back without any notice. He further submits that recently, the Hon'ble Supreme Court has held that the entire acquisition proceedings are vitiated if no compensation is paid to the landowners after the acquisition proceedings were over, as per the latest enactment under the Right to Fair Compensation and Transparency and Resettlement Act, 2013 as reported in 2014(1) CTC 755. The petitioner further submits that at every stage notice is mandatory till the compensation is paid and possession has been taken over. In this case, the entire records revealed that at no point of time, the landowners were made known about the subsisting of the proceedings after the acquisition was quashed by this Court and from the date of delay in filing the appeal and it was numbered and when it was allowed and the subsequent stages the Housing Board has not cared to issue any notice to the landowners and thus the entire proceedings are vitiated.

6. The petitioner further submits that any allotment on an illegal acquisition will not stand and the claim of the fourth respondent that a sale deed executed by the Housing Board in his favour, is not binding on the petitioner since fraud has been employed by the Housing Board in securing the property and allot the property clandestinely by joining hands with the fourth respondent and allot the same under discretionary quota without making any effort to follow the directions of the Division Bench to re-convey the property to the owners and there by employing fraud

on the petitioner by not serving any notice and not allowing them to Act. The petitioner has taken steps to set-aside the allotment in favour of first respondent under discretionary quota since it is not coming under the scheme and the purpose for which, the scheme was framed has been extinguished and most of the land acquired were reconveyed. The petitioner further submits that the first respondent cannot claim that discretionary quota is valid in the Eyes of Law and the petitioner cannot come under the category of the persons mentioned in the statute. By merely stating in the affidavit that he is the social worker cannot entitle him to get the allotment under the Discretionary quota. This Court has already set-aside the various allotments made during the relevant point of time. Hence, the petitioner has filed the above petition to set-aside the acquisition proceedings and the consequential allotment made in favour of fourth respondent.

7. The fourth respondent has filed a counter statement and resisted the above writ petition. The fourth respondent is doing social work as well as being a practicing advocate at Vellore and Thirupathur. On 21.01.2009, the second respondent herein allotted house-site to him situated at Plot No.BN164, Kannappan Nagar, Thiruvannamiyur Scheme under hire purchase basis, after that the second respondent fixed the total final cost of the said plot to the tune of Rs.67,50,000/- and also imposed conditions for the repayment schedule in his letter No.AL-3/7821A/2008, dated 24.03.2009, after getting such an order, he paid the entire amount to the Housing Board and in turn, the Housing Board Officials, viz., Executive Engineer / Administrative Officer, Besant Nagar Division executed sale deed in favour of him on 09.02.2011 and the same was registered in the Sub Registrar Office, Chennai South in Document No.1981/2011, dated 14.03.2011. The fourth respondent further submits that after registering the sale deed, the Tamil Nadu Housing Board handed over the possession on 09.12.2011 from that date he is in possession and enjoyment of the said plot, but when he made an attempt to put up fencing in the above said plot, at that time, the Inspector of Police, City Crime Branch, who is son-in-law of the writ petitioner herein came and prevented him and stating that the said house-site plot is belonging to him. At that time, he produced the sale deed executed by the Tamil Nadu Housing Board and allotment orders and he made a request before the writ petitioner herein to produce any documents to prove his ownership with regard to house site plot No.BN-164, Kannppan Nagar, Thiruvannamiyur Scheme, but he was not able to produce any records, but he expected something from him, but he refused to do so, hence he used his influence with the police officials to prevent him to put up fencing in his house site.

8. The fourth respondent further submits that in this connection, he lodged a complaint before the Inspector of Police, Thiruvananthapuram, against the writ petitioner herein and also seeking police protection, but the said Police was not inclined to give any police protection to him for put up fencing, since the writ petitioner's son-in-law using his police influence with the help of his hooligans prevented him from putting up fencing in his plot. The fourth respondent further submits that after intervention of the writ petitioner and his son-in-law herein, he enquired with TNHB officials with regard to allotment made to him, then only, he came to understand that the writ petitioner herein and another person approached this Court and filed writ petition, challenging the Land Acquisition Proceedings initiated by the second respondent herein as well as Government in W.P.Nos.12957 and 12958 of 1986, when the above writ petitions along with batch of writ petitions came up before this Court on 11.10.1991 and this Court was pleased to quash the entire Land Acquisition Proceedings. Against which, the Government of Tamil Nadu as well as the second respondent herein preferred Writ Appeals before this Court in W.a.Nos.630 to 632, 634 to 653 of 1995 etc., batch. When the above writ appeals came up before this Court on 16.11.1996 and this Court was pleased to pass orders setting aside the order passed in the above writ petitions filed by the writ petitioner herein and others. In that writ appeal, the writ petitioner herein contested the matter before the Hon'ble Division Bench and failed to succeed in the writ appeal and writ appeal was allowed by this Court against which, the writ petitioner had not prepared any SLP before the Hon'ble Supreme Court and he did not chose to review the order passed by the Hon'ble Division Bench.

9. The fourth respondent further submits that he enquired with the Government as well as TNHB with regard to whether the writ petitioner herein and others preferred any appeal before the Hon'ble Supreme Court against the order passed by the Division Bench in W.A.Nos.630 to 632, 634 to 653 of 1995 etc., batch, but no appeal has been preferred against the said writ appeal orders, hence the entire Land Acquisition Proceedings were upheld by this Court, the writ petitioner cannot claim over the above said house site, since the entire compensation has been deposited with Court in the year 1986 itself and the physical possession also taken over by the second respondent herein, then only the second respondent executed the sale deed in favour of him in the year 2011, i.e. on 09.12.2011, from the date, he is in possession and he is enjoying the said house site. In the said circumstances, he approached this Court and filed Writ Petition in W.P.No.32879 of 2013, praying for giving Police Protection for putting up fencing in the above said House Site after passing orders by this Court, he approached the

Police and he put up fencing in the above said house site against which one Rangasamy who claimed ownership in the above said house site herein preferred Writ Appeal in W.A.No.2481 of 2013, challenging the above said order passed in W.P.No.32879 of 2013, when the above writ appeal came up before this Court, he represented before this Court that already fencing has been put up, hence the writ petition itself become infructuous, hence he has withdrawn the above writ petition.

10. The fourth respondent further submits that now the writ petitioner came forward with false averments and suppressed the facts that claiming for himself, he is in possession, but actually from 09.12.2011 onwards, he is in possession and enjoyment of the said house-site and patta also obtained in his name and the writ petitioner herein misleading this Court and stating that he is in possession is a telltale story. The fourth respondent further submits that the writ petitioner herein stated in his affidavit that the Government has not filed any appeal against the order passed in writ petition in W.P.No.12957 of 1986, dated 11.10.1991, but the Government prepared Writ Appeal before the Division Bench of this Court in W.A.No.646 of 1995 and the same was allowed by this Court on 16.11.1996. The fourth respondent further submits that the writ petitioner had mislead this Court, he stated in his affidavit that he made attempt to remove the bush on 25.07.2013, by using a JCB at that time when his persons said to have come to the spot on 28.07.2013, made attempt to trespass into the above said house site and the writ petitioner quarreled with them and this occurrence not at all taken place at any point of time and he never threatened him, but he with an intention to grab his land on 31.07.2013, he lodged false complaint against him before the Thiruvannamiyur Police Station in turn, the said Police enquired with him at that time, he produced this Court's Division Bench order, the second respondent allotment order as well as sale deed executed by the second respondent in favour of him on 09.12.2011, but on the other hand, the writ petitioner herein was not in a position to produce any documents before the said police, hence, the police refused to register any F.I.R. The fourth respondent further submits that with regard to para 9 of the affidavit of the writ petitioner herein, in the above writ petition, he stated that the Tamil Nadu Housing Board without taking any legal proceedings in taking his land but as per this Court Division Bench order made in W.A.No.646 of 1995, the Housing Board retained possession of the above said land since physical possession already taken immediately after passing award and moreover, the writ petitioner had not challenged the above writ appeal order made in the year 1996 and was keeping quiet for more than 18 years, now the writ petitioner has come forward stating he is not aware is not believable.

11. The fourth respondent further submits that when the Hon'ble Division Bench of this Court passed orders in W.A.No.646 of 1995, this Court had given liberty to the writ petitioner to make an application seeking re-conveyance of the land which means that physical possession already taken by the Housing Board, but the writ petitioner till today has not made any application before the Government and Housing Board, but now taking a stand that the Housing Board did not send any letters to him for inviting him for making such an application and it is surprising that the writ petitioner taking such a stand. The fourth respondent further submits that since the Government as well as Housing Board have taken physical possession of the house site and compensation has been deposited in the Court, the writ petitioner cannot invoke under provisions of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013) and moreover, the reported Judgment made by the Hon'ble Apex Court in 2014 (1) CTC 755 is not at all applicable in the writ petitioner's case since already physical possession is taken over by the Housing Board in the year 1986 itself and handed over the physical possession to him on 09.12.2011.

12. The fourth respondent further submits that the writ petitioner purchased the above said house site on 25.02.1981 i.e., after issuance of notification under Section 4(1) of the Land Acquisition Act, 1894 in G.O.Ms.No.1096, Housing and Urban Development Department, dated 17.07.1978, hence the writ petitioner sale itself is void and not valid in law as per this Court and the Hon'ble Apex Court Judgment delivered after issuance of 4(1) Notification the subsequent purchasers have no locus standi to approach this Court, challenging the Land Acquisition Proceedings. The fourth respondent further submits that the grounds raised by the writ petitioner herein is not at all applicable to the writ petitioner since already the physical possession of the vacant land taken by the Housing Board immediately after award has been passed in the year 1986 and handed over to him on 09.12.2011, now he is in possession, hence the entire citations cited by the writ petitioner in his grounds not applicable to him. Hence, the fourth respondent entreats the Court to dismiss the above writ petition.

13. The highly competent counsel Mr.N.Anand appearing for the petitioner submits that the petitioner is the owner of the property comprised in Survey No.88/9B measuring to an extent of 2400 sq.ft. situated at Ganapathy Second Street, Avvai Nagar, Thiruvannamipur, Chennai. The highly competent counsel further submits that the respondents 1 to 3 had initiated Land Acquisition Proceedings in the year 1978, subsequently an award was passed.

Actually, the petitioner owning a small piece of land, further the petitioner had not received any compensation from the Land Acquisition Officer, besides the Land Acquisition Proceedings had not been strictly adhered to as per the Old Act, 1894. As such, the acquisition proceedings have become lapsed. Thereafter, the Housing Board had executed a sale deed in the month of January 2011 to and in favour of the fourth respondent herein. Therefore, the entire allotment order and sale deed have been issued in the name of the fourth respondent is not sustainable under law. The highly competent counsel further submits that the Tamil Nadu Housing Board had initiated Land Acquisition Proceedings for acquiring vast lands at Thiruvannamiyur for forming a Neighbourhood Scheme including the petitioner's land. The assigned landowners had filed writ petitions including the writ petitioner herein in W.P.No.12957 of 1986 and batch and the said writ petitions were allowed by this Court on 11.10.1991. Accordingly, the entire Land Acquisition Proceedings have become lapsed. As of now, the petitioner is in possession of the property continuously without any interference whatsoever. The highly competent counsel further submits that there was an old building over the said land which had collapsed due to its dilapidation. After quashing the Land Acquisition Proceedings by this Court, the Government have not filed any appeal against the learned Single Judge's order. Under the circumstances, the petitioner's employee had engaged a JCB vehicle and entered into the said property on 25.07.2013 and at that point of time, the fourth respondent's hooligans had trespassed into the property and prevented the levelling work that was in progress. At that time, the fourth respondent had informed that he had purchased the property from the Housing board and also threatened the petitioner. Hence, the petitioner had levelled a complaint before the Thiruvannamiyur Police Station on 31.07.2013 against the fourth respondent and his accomplices for their misdemeanor caused by them. The highly competent counsel further submits that the Investigating Officer had conducted an enquiry on this issue, when the fourth respondent informed to the Investigating Officer that he will produce necessary title deeds for claiming his civil rights over the said property, but he has failed to do so, however, the petitioner had produced valid title deeds over the said property and proved his ownership.

14. The highly competent counsel appearing for the petitioner further submits that the petitioner had sought information from the Housing Board under the Right to Information Act to clarify the claim of the fourth respondent and then only, he came to know that a fraud had been committed by the officials of the Housing Board, by way of allotment under discretionary quota. The highly competent counsel further submits that the fourth respondent has filed a writ petition in W.P.No.32879 of 2013 and

attempted to take possession of the property, besides the petitioner also had taken steps to set-aside the fraudulent sale executed by the Housing Board. Thereafter, the Housing Board has preferred an appeal against the learned Single Judge's Order which was promptly quashed in the Land Acquisition Proceedings on 11.10.1991. In the said Writ Appeal, no notice was served on the petitioner. Thereafter, the Division Bench of this Court had given liberty to the petitioner to make an application to the Housing Board for seeking re-conveyance of the subject matter of the property, but the Housing Board had violated the direction of the Hon'ble Division Bench of this Court. The highly competent counsel further submits that the petitioner had not received any compensation from the Land Acquisition Officer and he is in occupation of the said property, and as such, the petitioner is entitled to secure appropriate remedy under Section 24(1) of the New Act, 2013. Further, the sale deed executed by the Housing Board in favour of the fourth respondent is not binding on the petitioner. Further, the discretionary quota is not valid in the eye of law. The fourth respondent had stated his own opinion that he is a social worker without any documentary fact, therefore, the alienation in favour of the fourth respondent by the Housing Board stands under no validation. Hence, the highly competent counsel entreats the Court to allow the above writ petition.

15. The highly competent counsel Mr.V.Anandhamoorthy appearing for the second respondent submits that the second respondent is the requisitioning body, on their request, the first respondent herein had issued a Government Order for acquiring the larger extent of land at Thiruvannamiyur for forming the Neighbourhood Scheme. Accordingly, the third respondent herein had initiated Land Acquisition Proceedings under the Old Act and acquired the vast area of land including the petitioner's land for the said purpose. The third respondent had initiated Land Acquisition Proceedings in the year 1978 and the same had been completed in the year 1986. Subsequently, the compensation had been deposited before the concerned Court. In turn, the third respondent herein had taken over the subject matter of the land from the petitioner and handed over the same to the second respondent herein. The second respondent had also implemented the scheme in a thorough manner and the acquired lands were allotted to the public. The highly competent counsel further submits that the fourth respondent was allotted the subject matter of the land under discretionary quota since he is being a social worker. Under the circumstances, the petitioner has filed the above writ after a lapse of around 28 years, which came as an afterthought. Therefore, the above writ petition is not maintainable.

16. The highly competent Additional Government Pleader Mr.M.S.Ramesh appearing for the respondents 1 and 3 submits that the first respondent had issued G.O.Ms.No.1096 dated 17.07.1978 and following the said G.O., the third respondent had adapted the Old Act and initiated Land Acquisition Proceedings for acquiring the vast area of lands at Thiruvannamiyur including the petitioner's land for public purpose in order to implement the Neighbourhood Scheme. The third respondent/Land Acquisition Officer had given 4(1) Notification under the Old Act, subsequently, enquiry was conducted under Section 5-A of the Old Act, after duly serving notice on the petitioner and then, declaration was published after obtaining approval under Section 6 of the Old Act. The highly competent Additional Government Pleader submits that the compensation amount had been assessed adequately and the same was deposited before the civil Court. The same was duly communicated to the petitioner herein. The entire acquisition proceedings had been completed in the year 1986 after strictly adhering to the Old Act. Thereafter, the said entire acquired lands were allotted to the various categories, viz., the economically weaker sections, lower income group, middle income group, high income group etc. The petitioner was allotted the subject matter of the land to an extent of 2400 sq.ft under the discretionary quota since he being involved in social activities and doing social service to the general public including free legal service to the poor litigants. The fourth respondent had also remitted the entire cost of the land as per the allotment order conditions. Subsequently, the second respondent herein had executed a registered sale deed in the name of the fourth respondent herein. As such, the fourth respondent is the absolute owner of the property and enjoying the same after occupation. This is the main crux of the case. Therefore, the petitioner cannot claim any relief against the respondents 1 and 3. Hence, the above writ petition is not maintainable and has to be dismissed in limine.

17. The highly competent counsel Mr.C.Prakasam appearing for the fourth respondent submits that the second respondent herein had allotted the subject matter of the land to and in favour of the fourth respondent herein on 29.01.2009 after fixing the total final cost of the land. Accordingly, the fourth respondent had remitted a sum of Rs.67,50,000/- to the Housing Board in accordance with the allotment order. Thereafter, the Housing Board being a competent authority had executed a registered sale deed bearing Registration No.1981, dated 14.03.2011, on the file of the Sub Registrar, Saidapet. Now, the fourth respondent is in occupation and enjoying the property after the consideration. Under the circumstances, the petitioner had made wrong entry with his accomplices with the subject matter of the property. Therefore, the petitioner has no locus standi to raise any civil rights over the said property,

besides, the petitioner now questioning the sale deed stating that the sale executed by the second respondent to and in favour of the fourth respondent. The issue cannot be determined through the above writ petition. For the petitioner's allegations, a comprehensive enquiry is required before the proper forum but not before the writ Court. The highly competent counsel further submits that the second respondent had not possessed marketable title deeds for allotting the said land and following the same the sale deed had been executed to and in favour of the fourth respondent herein.

18. The highly competent counsel appearing for the fourth respondent further submits that the petitioner and other adjacent landowners had challenged the Land Acquisition Proceedings before this Court by way of a batch of writ petitions and writ appeals and the same were negatived against the petitioner and others. Therefore, the above writ petition is not maintainable since it has been filed on the same cause of action against the same properties and parties also. Further, the petitioner had levelled a complaint before the Thiruvananthapuram Police Station, wherein a detailed enquiry was conducted and at that point of time, the petitioner had produced title deeds and established his ownership before the Police Investigating Officer. As such, the Police Officer had refused to proceed in the said complaint any further. The highly competent counsel vehemently stated that all the relevant records pertaining to the subject matter of the land had been mutated including the revenue records in the name of the fourth respondent. Under the circumstances, the petitioner cannot challenge the Land Acquisition Proceedings after a lapse of 28 years. Therefore, the above writ petition become infructuous. Further, the petitioner cannot secure any relief under Section 24(2) of the New Act 30 of 2013 since the fourth respondent is already in possession and enjoying the same on the strength of valid title deeds. Hence, the highly competent counsel Mr.C.Prakasam entreats the Court to dismiss the above writ petition.

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

(i) The third respondent had initiated Land Acquisition Proceedings for acquiring the petitioner's lands and others lands in the year 1978. Thereafter, the Land Acquisition Officer after observing all legal formalities under the Old Act had completed the Land Acquisition Proceedings in the year 1986, subsequently, an award has been passed. However, the petitioner and other landowners had filed a batch of writ petitions before this Court and the same was allowed on the batch of writ petitions in W.P.Nos.12957 and 12958 of 1986 etc. Against the said order passed by the learned Single Judge, the Government / respondents had filed a batch of

writ appeals before the Hon'ble Division Bench of this Court and the same was allowed in W.A.Nos.630 to 632, 634 to 653 of 1995 etc., dated 16.11.1996. Against the said common order, no appeal has been filed and as such, the Division Bench order has become final and upheld. As such, the above writ petition is not maintainable on the same issue, on the same cause of action against the same parties / Government since it is resjudicata.

(ii) The petitioner has claimed relief under Section 24 (2) of the New Act 30 of 2013. In the instant case, the petitioner cannot obtain relief under the said Section since he is not in physical possession and enjoying the same.

(iii) The fourth respondent had remitted a sum of Rs.67,50,000/- to the Housing Board representing the total cost of the total land and obtained a registered sale deed. The allotment order made by the second respondent in favour of the fourth respondent by executing a sale deed to and in favour of the fourth respondent herein is considered valid under law since there is no legal violation for allotting the plot and executing the sale deed after receiving the cost of the land.

(iv) The writ petitioner has filed the above writ petition after an extended period which arrived as an afterthought since the current position prevailing in that the entire Neighbourhood Housing Scheme had been duly implemented and now being occupied and in enjoyment by the third parties / general public including the fourth respondent herein. Hence, this Court declines to entertain the above writ petition.

20. On considering the factual position of the case and arguments advanced by the highly competent counsels on all sides and on perusing the typed-set of papers besides this Court's view as mentioned above (i) to (iv), the above writ petition does not generate sufficient valid grounds, hence, the above writ petition stands dismissed.

21. In the result, the above writ petition is dismissed. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

r n s

To

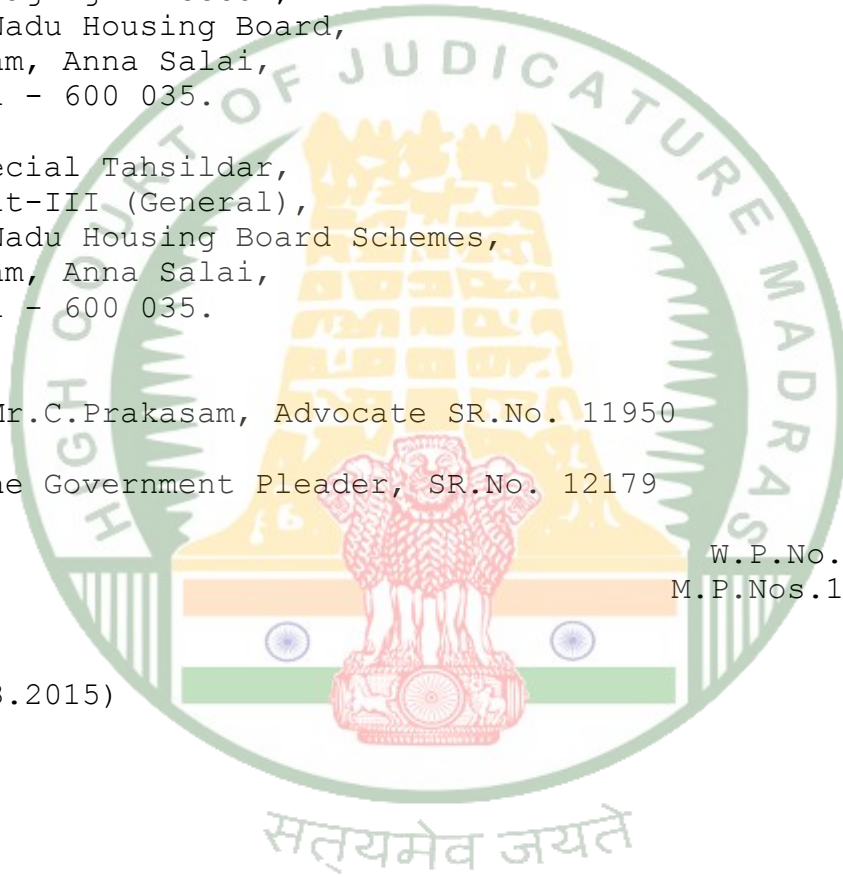
1. The Secretary,
Government of Tamil Nadu,
Housing & Urban Development Ministry,
Fort St. George,
Chennai - 600 009.
2. The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Anna Salai,
Chennai - 600 035.
3. The Special Tahsildar,
L.A.Unit-III (General),
Tamil Nadu Housing Board Schemes,
Nandanam, Anna Salai,
Chennai - 600 035.

2 CCs to Mr.C.Prakasam, Advocate SR.No. 11950

1 CC to the Government Pleader, SR.No. 12179

W.P.No.9986 of 2014 &
M.P.Nos.1 and 2 of 2014

UG (CO)
PSI (26.03.2015)



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