

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON 22/12/2014

DATED: 02/09/2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.32640 of 2014

Mrs.V.Chandrakanth
Arcadia

St. George Homes Road,
Ketti, Nilgiris,

represented by Power of Attorney Holder,
Dr.P.S.Vetriselvam

... Petitioner

Vs.

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

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

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India for a Writ of Declaration, to declare that the acquisition of the petitioner's land measuring an extent of 32 cents comprised in S.No.188/5, Tiruvanmiyur Village, pursuant to the 4(1) Notification dated 26.03.1975 published in the Tamil Nadu Government Gazette Supplement Part II Section 2 dated 26.03.1975 and 6 Declaration bearing G.O.No.596 Housing and Urban Development Department dated 21.03.1978 and published in the Tamil Nadu Government Gazette Part II Section 2 dated 23.03.1978 and and Award No.9 of 1983 dated 28.03.1983 has lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency and Land Acquisition, Rehabilitation and Resettlement Act 2013 (30/2013).

For Petitioner : Mr.M.Vaidyanathan

For Respondents: Mr.M.S.Ramesh
Addl. Govt. Pleader for R1

Mr.B.Vivekavanan
(Housing Board) for R2

O R D E R

The petitioner submits that she had purchased the property bearing S.No.188/5, Tiruvanmiyur Village, measuring an extent of 32 cents under Document No.191/74, dated 31.07.1974. A patta was issued to her for the said property on 16.11.1974 and her name was entered in the Revenue Register. The petitioner further submits that notification under Section 4(1) of the Land Acquisition Act, 1894 proposing to acquire an extent of 275 acres in Tiruvanmiyur and Kottivakkam Village was issued and the same was gazetted on 19.02.1974 and 26.03.1975. During the relevant period, the petitioner was a student of Kilpauk Medical College and she was staying in a hostel. Her parents were away in Malaysia. Thereafter, in December 1978, a notice was issued under the Urban Land Tax Act for enquiry and in January 1979, an order was passed in the name of the petitioner. The petitioner further submits that in March 1983, for the first time a notice was sent in her name to her maternal uncle's address who received it and informed her of the same. The notice was under Section 9 of the Land Acquisition Act, stating that the lands owned by the petitioner had been acquired and she was called upon to attend an enquiry for passing an Award. Since the petitioner was away in UK and Malaysia, in 1983, she requested her father-in-law to be her Power of Attorney in India and to take appropriate steps for challenging the acquisition. A writ petition bearing W.P.No.9484 of 1983 was filed for setting aside the acquisition. In the affidavit filed in support of the writ petition, it was wrongly averred by the petitioner's father-in-law that a patta had not been issued. However, in the year 1991, the petitioner filed a miscellaneous petition stating that she had been granted a patta bearing No.211 on 16.11.1974 and that the property stood in her name in the Revenue Register since then. The petitioner also raised an additional ground that the notification purporting to acquire her land was vague. In the affidavit filed in support of the writ petition, it was categorically averred that no notice had been received under Section 5(A). In the counter affidavit filed by the respondents, an averment was made that in the notifications issued, Mrs.Ranganayaki Ammal, the erstwhile owner of the land had been shown as an interested person, since the patta stood in her name. It was also admitted that the draft declaration under Section 6 was also issued in her name and it was only at the stage when notices under Sections 9(3) and 10 of the Act were being prepared, verification was made at the Sub-Registrar's Office and it was found that the petitioner had purchased the land, as early as in 1974, and hence, notices were sent to her.

2. The petitioner further submits that the averments aforesaid made by the respondents are totally false and it is obvious that they had taken advantage of the averment wrongly made by the petitioner's father-in-law in his affidavit, that the patta had not been transferred to the petitioner's name. A perusal of the Revenue Records would very clearly show that the patta had been transferred to the name of the petitioner as early as on 16.11.1974. The petitioner further submits that 4(1) Notification and the declaration under Section 6 of the Land Acquisition did not show the name of the petitioner as the owner of the land in question. It has also been admitted by the respondents in the earlier proceedings that no notice had been issued to the petitioner under Section 4(1) of the Land Acquisition Act. The petitioner further submits that W.P.No.9484 of 1983 was allowed by a Division Bench of this Court on 24.04.1991 on the ground that "the ratio laid down in the judgment in W.P.No.10474 of 1982 clearly covered the issues raised. The petitioner understands that the judgment in W.P.No.10474 of 1982 dealt with the question whether the impugned notification was vague and this Court came to the conclusion that since the notification was bereft of details, it was vitiated by vagueness. As the lands in question were covered by similar notifications, the Division Bench applied the ratio of the judgment in W.P.No.10474 of 1982 and set-aside the acquisition. The contentions raised by the petitioner in the affidavit filed in support of the writ petition viz., W.P.No.9484 of 1983 were not decided on merits since the writ petition was allowed on a larger question. The respondents filed SLP (Civil) 13725 of 1992. The Special Leave Petition dealt with the ground of vagueness and the scope of Section 70 of the Tamil Nadu Housing Board Act, 1961. A counter was filed by the petitioner reiterating the allegation that no notice had ever been served on her and that her name was entered in the Revenue Register as early as on 16.11.1974. The petitioner further submits that the Hon'ble Supreme Court allowed the Special Leave Petition holding that the notification was not vague. The other issues raised by the petitioner regarding the non-service of notice under Section 5(1) of the Land Acquisition Act and that the entire proceedings commencing from Section 4(1) of the Land Acquisition Act stood vitiated, were not considered on merits. The petitioner further submits that though the patta had been transferred to the petitioner's name as early as 16.11.1974, the respondents herein had not considered her as the owner of the lands in question till after the declaration under Section 6 of the Land Acquisition Act was passed. The petitioner further submits that the failure on the part of the respondents to verify the Revenue Records properly vitiates the entire proceedings. The petitioner is advised to state that this Court in a judgment reported in AIR 1977 MAD 272 has held that failure to mention the name of the owner in a notification issued under Section 4(1) of the Land Acquisition Act vitiated the entire proceedings. The Hon'ble Supreme Court while considering the significance of an enquiry under Section 5(A) of the Land Acquisition Act has observed as follows:-

"The right to file objections under Section 5-A is a substantial right when a person's property is being threatened with acquisition and we cannot accept that, the right can be taken away as if by a side wind."

3. The petitioner further submits that on several occasions viz., 23.01.1992, 30.11.1992 and 20.03.1992, the petitioner has requested the second respondent herein to drop the proceedings. She had also requested the first respondent by a registered letter on 20.03.1992 to drop the proceedings. However, no reply has been received so far. The petitioner further submits that between 06.10.1983 and 28.06.1988, the following lands viz., S.Nos.169/1A, 169/1C, 169/2A1, 169/2A2, 210/5, 70/3, 84/6A, 106/38, 104/4 and 78/2-D that had been acquired were released from acquisition for reasons best known to the respondents. The petitioner is also advised to state that the failure on the part of the respondents to act on the representation made by her for dropping the proceedings, especially when the provisions of the Land Acquisition Act had not been complied with, is totally contrary and violative of her rights under Article 17 of the Constitution of India. The acquisition is also violative of Article 300-A of the Constitution of India which mandates that no person shall be deprived of his property except in accordance with law. The petitioner further submits that between 1983 when she first came to know of the acquisition and November 1995 when the order of the Hon'ble Supreme Court was pronounced, the petitioner has been agitating the matter before Courts of competent jurisdiction. As stated earlier, between 1974 and 1979, the petitioner was a student of Kilpauk Medical College. In December 1978, a notice under the Tamil Nadu Urban Land Tax Act was issued to the petitioner for an enquiry, which was duly attended. In January 1979, an order of assessment was passed in the petitioner's name after the Urban Land Tax Assistant Commissioner verified the original document and the original patta. This is clearly stated by the Urban Land Tax Assistant Commissioner in his order. During March / April 1979, the petitioner received a demand notice for payment of urban land tax which was also duly paid. All these factors led the petitioner to believe that she continued to be the owner of the land and she had no knowledge whatsoever of the acquisition proceedings. It was only in 1983 when a notice under Section 9(3) and 10 of the Land Acquisition Act was issued, the petitioner became aware of the proceedings and immediately thereafter, she approached this Hon'ble Court for redressal. The petitioner's absence from India from 1981 would also confirm the petitioner's allegation that she could not have had knowledge of the acquisition proceedings. The petitioner states that she is not guilty of laches for the aforesaid reasons. On the contrary, the petitioner has been alert and has approached the Court at the first opportunity. The petitioner further submits that this is the only property she owns in Chennai.

4. The petitioner further submits that based on the above facts, W.P.No.3334 of 1996 was filed before this Court challenging the acquisition of the land referred to above. On 10.12.1999, this Court dismissed the petitioner's writ petition thereby upholding the acquisition proceedings. An appeal bearing W.A.No.93 of 2001 was filed against the said judgment and a Division Bench of this Court allowed the writ appeal on 01.11.2004 and held as follows:-

"We find force in the contention of the learned counsel for the petitioner that the entire acquisition proceedings vitiates for want of notice to the petitioner for an enquiry under Section 5A of the Act before passing the declaration under Section 6 of the Act. The acquisition proceedings therefore fail and accordingly, they are set aside."

The petitioner further submits that the respondents herein filed SLP No.14203 of 2005 in the Hon'ble Supreme Court against the judgment dated 01.11.2004 passed by this Court. The Hon'ble Apex Court granted leave and thereafter the SLP was renumbered as CA No.33 of 2008. On 01.11.2013, the Hon'ble Supreme Court allowed the appeal on the ground that the petitioner could be deemed to have given up her challenge to the acquisition proceedings on the ground of non-compliance of Section 5A of the Act. A Review Petition filed by the petitioner in December 2013 was also rejected by the Hon'ble Supreme Court. The petitioner further submits that "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013" came into effect on 01.01.2014. The said enactment replaced the Land Acquisition Act 1894. The petitioner submits that Section 24(2) reads as follows:-

" ... (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."

The petitioner further submits that it appears from the records that an award bearing No.9 of 1983 was purportedly passed on 28.03.1983 in respect of the land acquired. However till date, a copy of the Award has not been furnished to the petitioner. A perusal of the copy filed before the Hon'ble Supreme Court shows that the compensation allegedly awarded to the petitioner is due for payment. Furthermore, in the rejoinder filed by the respondents before the Hon'ble Supreme Court, the following averment has been made in para 7:-

"Since there was no objections all these times, the action for passing of Award was processed by the Land Acquisition Officer according to the Rules. Thus, it made him to include the name of the respondent as on date stile holder and as such, the notices under Section 9(3) and 10 were served and award amount also ordered to be paid to the title holder of the respondent on production of document."

This averment has been made as early as in 2006. In other words, it has been admitted by the respondents herein that the compensation remained unpaid even as late as 2006. There is no iota of evidence in any of the proceedings before this Court and the Hon'ble Supreme Court that the compensation awarded to the petitioner has been paid into Court as mandated by Section 31 of the Land Acquisition Act 1894 which reads as follows:-

"31. Payment of compensation or deposit of the same in Court:-

(1) On making an Award under Section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested, entitled thereto, according to the Award and shall pay to them unless prevented by someone or more of the contingencies mentioned in the next sub section.

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of compensation in the Court to which a reference under Section 18 would be submitted.

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount.

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under Section 18. Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto."

The petitioner had on 30.09.2014 caused a letter to be sent to the respondents herein seeking information relating to the compensation alleged to have been awarded to her. By letter dated 03.11.2014, the respondents have informed the petitioner that they were unable to furnish her with the required information since the documents related to a transaction which had taken place 30 years ago. Significantly, the number of the Award viz., 9/83 had been mentioned in the letter, though the petitioner had not made any reference to the award number in her communication. It is therefore apparent that the respondents had initially suppressed vital information with a view to thwart the petitioner's endeavour to have the acquisition proceedings set-aside in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013 (30/2013). However, by a communication dated 13.11.2014, the Special Tahsildar, Land Acquisition informed the petitioner herein that the amount has been deposited in the Treasury on 12.01.1990. The petitioner categorically submits that the amounts alleged to have been awarded has neither been paid to her nor deposited in any Court as required by Section 31 of the Land Acquisition Act. The petitioner had not consented to receive the same and has been agitating the validity of the acquisition before this Court and the Hon'ble Supreme Court ever since 1983. The petitioner has also filed an appeal under the Right to Information Act seeking the relevant information. The petitioner further submits that the Hon'ble Supreme Court and this Court have in a series of cases held that if the amount awarded as compensation has not been deposited into Court as mandated by Section 31 of the Land Acquisition Act, 1894, the acquisition proceedings would lapse as per Section 24(2) of the Act 30/2013. Undoubtedly, in the instant case, no amount has been deposited into any Court. This contention of the petitioner would be fortified by the averment made in the rejoinder statement filed before the Hon'ble Supreme Court which has been extracted supra and also by the proceedings dated 28.03.1983 filed in the Hon'ble Supreme Court, wherein, it has been clearly stated that the sum awarded to the petitioner is due. Hence, the petitioner has filed the above writ petition.

5. The second respondent has filed a counter affidavit and refuted the above writ petition. The second respondent submits that the present writ petition filed by the "Power of Attorney Holder" viz., Dr.P.S.Vetriselvam, on behalf of Mrs.V.Chandrakanth, who is the writ petitioner. However, the "Power of Attorney" document was executed on 22.11.1996 at Nilgiri. Further, the present writ petition is signed by the Power of Attorney alone, not by the writ petitioner. Therefore, the above writ petition is not maintainable. The second respondent further submits that as per the request made by the Chairman, Tamil Nadu Housing Board, the Government in their order No.282 (Housing) Labour Department dated 19.02.1972 have directed the acquisition of about 275 acres of lands in Village No.140, Thiruvannamiyur and No.141 of Kottivakkam Village of then Saidapet Taluk, Chengalpattu District for the formation of South Madras Neighbourhood Scheme. As such, the notification under Section 4(1) of the Land Acquisition Act for an extent of 148.01 acres in S.No.188/5

etc., of Thiruvannamiyur Village was approved in G.O.Rt.No.36, Housing and Urban Development Department dated 19.02.1975 and published in the TNGG On 26.03.1975. The land comprised in S.No.188/5 measuring to an extent of 0.32 acre referred by the petitioner was also covered under the said notification under Block-II. The said Notification under the Land Acquisition Act was preceded by the Land Acquisition officer on the basis of the entries made in the Revenue Records. The enquiry under Section 5A of the Act was held on 15.05.1975. After the remarks of the Tamil Nadu Housing Board and considering the objection of the land owner the Declaration under Section 6 of the Land Acquisition Act was approved by the Government in their Order No.596, Housing, dated 27.03.1978 for an extent of 9.57 acres in Block-II. Thereafter, the Land Acquisition Officer had passed the Award in Award No.9/1983, dated 28.03.1983 and observed all formalities laid down in the Land Acquisition Act.

6. The second respondent further submits that as per the said Award, the land in S.No.188/5 measuring 0.32 acres, stands registered in the name of Tmt.Ranganayaki Ammal, who is the original land owner. As per the Revenue account, the notice under Section 9(3) and 10 of the Land Acquisition Act was sent and the same was returned as undelivered. The second respondent further submits that on verification of records at Sub-Registrar Office, necessary notice under the said section was issued to the petitioner herein, viz., S.Chandrakant, since the land was purchased by the petitioner vide document No.191/74, dated 31.07.1974 and the compensation would be paid to the interested person, after perusal of original sale deed documents, patta etc.,. The second respondent further submits that the Tamil Nadu Housing Board has taken the possession of the land in S.No.188/5 on 20.09.1983 and a comprehensive lay out for the construction of 512 numbers of HIG flats in an extent of 10.35 acres including some other lands was prepared and got approved by the appropriate authority, viz., CMDA and scheme was implemented. Finally, the revised lay out was approved by the CMDA vide letter No.B1/6789/04, dated 10.11.2004. The second respondent further submits that the entire acquisition proceedings was successfully completed by the Tamil Nadu Housing Board. Subsequently, the petitioner has filed a writ petition in W.P.No.3334 of 1996 and the same was dismissed on 10.12.1999 on the ground of delay of laches. However, this Court has declared as there is no error or infirmity in the Land Acquisition Proceedings of the Land Acquisition Officer. However, the writ petitioner herein, aggrieved by the order dated 10.12.1999 in W.P.No.3334 of 1996, preferred appeal in W.A.No.93 of 2001 before this Court and the same was allowed on 01.11.2004, wherein, the order of the learned Single Judge passed in W.P.No.3334 of 1996 was set-aside, since the acquisition proceedings vitiates for want of notice to the petitioner for an enquiry under Section 5A of the Land Acquisition Act before approving the Draft Declaration under Section 6 of the Land Acquisition Act. Further, the Tamil Nadu Housing Board has preferred an appeal of SLP No.(C)No.14203/2005, before the Hon'ble Supreme Court of India against the order dated 01.11.2004 in W.A.No.93 of 2001 and the same was allowed in favour of

Tamil Nadu Housing Board on 01.11.2013. However, the petitioner herein has deliberately suppressed the order of SLP No.14203 of 2005, before this Court.

7. The second respondent further submits that the writ petitioner herein has preferred several writ petitions and challenged the acquisition proceedings. However, Hon'ble Supreme Court has confirmed that the entire acquisition proceedings is valid. However, the petitioner herein is repeatedly filing writ petition by writ petition with the intention to stall the entire acquisition proceedings. The second respondent further submits that the possession of the land was already taken by the Government of Tamil Nadu and the same was handed over to the Tamil Nadu Housing Board on 20.09.1983, since then the property is vested with Tamil Nadu Housing Board and the same is clearly admitted at the time of admission. The second respondent further submits that the writ petitioner is not an original owner and she is claiming right as legal-heir of original land owner and she has no locus standi to claim rights under Section 24(2) of the Right to Fair Compensation and Transparency and Land Acquisition, Rehabilitation and Resettlement Act 2013. Therefore, the present writ petition is liable to be dismissed for misrepresentation and suppression of real facts. The second respondent further submits that the writ petitioner is subsequent purchaser and she is not coming under the category of Section 3(r)(i): "Land Owner" defined as : "Whose name is recorded as the owner of the land or building or part thereof, in the records of authority concerned". However, the petitioner herein is coming under the category of 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." The second respondent further submits that the petitioner herein has admitted in the affidavit that she is not residing on the property. However, to prove that the petitioner is in possession of the property, the copy of the EB Card / electricity paid receipts, sale deed document No.191/74, dated 29.07.1974 have not been produced. Further, the petitioner herein has failed to produce the copies of revenue records, patta, chitta, property tax receipt etc., to prove her enjoyment and ownership etc.

8. The second respondent further submits that as per Award No.9/83, dated 28.03.1983, the interested person's name appears as "Rhieu S Chandrasekar". Therefore, the petitioner herein has to prove her address, identity and present existence before this Court. Subsequently, she has to prove her right and title over the acquired property. The second respondent further submits that the petitioner herein has filed the present writ petition and seeking remedy under Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition Act, Rehabilitation and Resettlement Act, 2013, Land Acquisition Process under Act 1 of 1894 shall be deemed to have lapsed in certain cases:-

"(1) Notwithstanding anything contained in this Act, in any cases of Land Acquisition Proceedings initiated under the Land Acquisition Act, 1894 (1 of 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, rehabilitation and resettlement 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."

The second respondent further submits that the petitioner herein is the subsequent purchaser after the 4(1) notification. However, she is considered as an interested person and she is entitled to get Award of compensation after production of original sale deed and other relevant documents to prove her ownership. Further, she cannot challenge the acquisition proceedings in the belated stage, without support of valid title and rights over the property.

" 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 the 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 in 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." In SHANTI SPORTS CLUM AND ANOTHER Vs. UNION OF INDIA OTHERS (2009) 15 SCC 705, the Hon'ble Apex Court has held that "Once the land is acquired by following due process of law, the same cannot be transferred by the landowner to another person and any such transfer is void and is not binding on the State. A transferee of the acquired land can, at best, step into the shoes of the land owner and lodge claim for compensation." The second respondent further submits that as per the award enquiry Tmt.Ranganayaki Ammal is the original owner and she has not alienated the property to the present writ petitioner, viz., Mrs.V.Chandrakanth. However, they have purchased from Thiru.D.H.Victoria, who is a stranger and no documents stands in his name. Therefore, the present writ petitioner herein has failed to produce relevant sale deed documents / revenue records to prove her ownership and legal rights and title. The second respondent further submits that the writ petition is filed by the Power of Attorney Agent viz., Dr.P.S.Vetriselvan, based on the Power of Attorney document No.72/1996, dated 26.11.1996 at Nilgiri. Therefore, the said Power of Attorney document is not conferring any right to the writ petitioner herein. Hence, the second respondent entreats the Court to dismiss the above writ petition.

9. The highly competent counsel Mr.M.Vaidyanathan appearing for the petitioner submits that the petitioner has purchased to an extent of 32 cents at Thiruvannamiyur Village in the year 1974. Patta was also issued in her name. The respondents had acquired the subject land. The highly competent counsel further submits that the petitioner was served notice in the month of March 1983 under Section 9 of the Act. Further, the petitioner was not served notice under 5 A of the Land Acquisition Act. The records disclose that the erstwhile owner Ranganayaki Ammal is the owner of the property. Hence, 6 declaration was published in the name of Ranganayaki Ammal. Actually, at the time of relevant period, the petitioner was the owner of the property. So far, the petitioner has not received any compensation from the respondents. Further, the petitioner is in possession. The petitioner also has made several representations to the respondents and requested them to drop the acquisition proceedings, but the same was not considered. Now, the petitioner is entitled to get relief under Section 24(2) of the Right to Fair Compensation and Transparency and Land Acquisition, Rehabilitation and Resettlement Act 2013 (30/2013).

10. The highly competent Additional Government Pleader Mr.M.S.Ramesh appearing for the first respondent submits that the subject land had been acquired in the year 1974 after initiating Land Acquisition Proceedings. After acquiring the said land, the petitioner had purchased the said land. As such, the sale deed itself is not valid.

11. The highly competent counsel Mr.B.Vivekavanan appearing for the second respondent submits that the second respondent had acquired the subject land and others lands to an extent of 275 acres at Thiruvannamiyur and Kottivakkam Village after observing all legal formalities as per the Act 1894. The acquisition proceedings had been completed in the month of February 1974. The petitioner had purchased the land to an extent of 32 cents on 31.07.1974. At the time of purchasing the said property, the erstwhile owner did not possess valid title deeds for alienating the said property in favour of the petitioner. During the relevant period, the second respondent was the owner of the property and occupying the same. The respondents had acquired the said property from the erstwhile owner, Ranganayaki Ammal. As such, the petitioner has no locus standi to claim compensation on the subject land.

12. The highly competent counsel appearing for the second respondent further submits that the second respondent had constructed various types of houses over the said land. Further, the second respondent got approval from the CMDA for constructing houses on the rest of the lands. Under the circumstances, the petitioner has filed the above writ petition and hence, it is not maintainable. Further, the same issue is pending before the Hon'ble Supreme Court of India. The petitioner is not in physical possession and she has no right to receive compensation. Therefore, the petitioner's prayer for seeking relief under Section 24(2) of the Right to Fair Compensation and Transparency and Land Acquisition, Rehabilitation and Resettlement Act 2013 (30/2013), is not maintainable.

13. 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, this Court is of the view that the connected matter is pending before the Hon'ble Supreme Court of India. To that effect, the highly competent counsel appearing for the petitioner produced the typed-set of papers. Further, as per the petitioner's affidavit, one Mrs.Ranganayaki Ammal was the owner of the property. As such, she is a necessary party in the above writ petition. Besides, the respondents had initiated Land Acquisition

Proceedings in the name of the erstwhile owner. Hence, the above writ petition is not maintainable. Therefore, the above writ petition is dismissed. There is no order as to costs.

r n s

Sd/-

Assistant Registrar (Records)

/True Copy/

Sub-Assistant Registrar

To

1. The Secretary Department of Housing & Urban Development,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.
2. The Chairman,
Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.

+1 C.C. To MR.M.VAIDYANATHAN, Advocate, in SR.NO.47139

+1 C.C. To MR.B.VIVEKAVANAN, Advocate in SR.NO.47335

Pre Delivery Order made in
W.P.No.32640 of 2014

TS(CO)

sd : 09/10/2015

सत्यमेव जयते

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