

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2015

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THE HON'BLE MR.JUSTICE N.KIRUBAKARAN

W.P.NO.23772 OF 2015

and

M.P.Nos.1 and 2 of 2015

M.Ranganathan

... Petitioner

/vs/

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

2.Tamil Nadu Housing Board,  
Rep.by its Managing Director,  
No.493, Anna Salai, Nandanam,  
Chennai 600 035.

... Respondents

Writ Petition filed under Article 226 of Constitution of India praying for issuance of Writ of Mandamus directing the respondents herein to re-convey the lands situated in S.No.952/1, 952/2, 955/1, 955/2, 955/3, Hosur Village and Taluk, Krishnagiri District, notified under Section 4(1) Notification in G.O.Ms.No.296 (Housing and Urban Development) Dept. dated 04.03.1991 as published in Tamil Nadu Government Gazette Part II-Sec.2(Supplement) dated 03.04.1991 and Sec.6(1) Declaration made in Letter No.41440/L.A.II(2) (92-1) Housing and Urban Development, L.A.II(2) Dept. dated 30.07.1992, as published in Tamil Nadu Government Gazette, (Supplement), dated 26.08.1992.

For Petitioner : Mr.V.Ravi

For Respondents : Mr.V.Jayaprakash Narayanan  
Spl.Government Pleader for R1  
Mr.V.Anandamoorthy  
for R2

## ORDER

The petitioner has approached this Court seeking direction to re-convey the property acquired by the Government under Section 48-B of the Land Acquisition Act, 1894. The petitioner has acquired property to an extent of 3.43 acres in S.Nos.952/1, 952/2, 955/1, 955/2, 955/3 in Hosur Village and Taluk, then in Dharmapuri District, now in Krishnagiri District, by virtue of Section 4(1) Notification in G.O.Ms.No.296 (Housing and Urban Development) Department, dated 04.03.1991 and after following the procedure as per Tamil Nadu Land Acquisition Act, an award was passed by the Land Acquisition Officer in Award No.7/94 on 10.06.1994. The land was handed over to the second respondent by the Land Acquisition Officer on 21.09.1994 and mutation of revenue records have been effected in favour of the Tamil Nadu Housing Board, in patta No.457. A lay out has been prepared and approval was obtained from the Planning Authority vide, layout approval No.LP/DTCP No.71/98 to implement the development works in the Scheme, for which the lands were acquired. The petitioner's land was assigned for Group Housing Scheme and also 18 meter road(WMM) was formed and completed, which is being main approach road to Phase XVI Scheme. Since the petitioner was not satisfied with the award amount, a reference of Section 18 of the Land Acquisition Act was made to Civil Court and the said reference was numbered as L.A.O.P.No.460 of 1996 on the file of the Subordinate Court, Hosur and the compensation was enhanced and fixed at Rs.4,50,000/- per acre on 16.06.1998. The Government preferred A.S.No.188/1999 before this Court and this Court fixed the compensation at Rs.3,60,000/- per acre and totally, a sum of Rs.55,79,165/- was fixed. After deducting income tax, a sum of Rs.50,14,443/- was deposited before the Sub Court, Hosur by the Land Acquisition Officer on 12.10.2012. The enhanced compensation amount deposited on the file of the Sub Court, Hosur was also received by the petitioner. Thereafter, the present writ petition has been filed.

2. Heard Mr. V. Ravi, learned counsel appearing for the petitioner and Mr.V.Jayaprakash Narayanan, learned Special Government Pleader appearing for the 1st respondent and Mr.V.Anandamoorthy, learned counsel appearing for the second respondent.

3. The learned counsel appearing for the petitioner would refer to Section 48-B of the Land Acquisition Act, 1894 to show that the petitioner has got a statutory right to ask for re-conveyance of the property. He relied upon the judgment of this Court in Anti-Corruption Movement rep.by its General Secretary, 7 Kaveri Street, Gandhi Nagar, Saligramam, Chennai 600 093 vs. The Chief Secretary to Government of Tamil Nadu, Co-operatiion, Food and Consumer Protection

Department, Fort ST. George, Chennai 600 009 and 9 others reported in 2015 (2) CTC 225 to contend that the validity of the provisions of Section 48-B of Land Acquisition Act, 1894 has been upheld by the Division Bench of this Court and therefore, the petitioner is only seeking re-conveyance.

4. On the other hand, Mr.V.Anandamoorthy, learned counsel appearing for the second respondent would submit that the proceedings were initiated about 24 years ago and all the formalities have been completed that the compensation amount was deposited and the petitioner also withdrew the deposited amount. The land has been put in use and used for Group Housing Scheme. Therefore, the contention of the petitioner that it is not utilised, is not correct.

5. Mr.V.Jayaprakash Narayanan, learned Special Government Pleader appearing for the first respondent would submit that the right of the petitioner is not automatic, as held by the Hon'ble Supreme Court in Tamil Nadu Housing Board vs. Keeravani Ammal and others reported in (2007) 9 SCC 255.

6. Heard the parties and perused the records.

7. As rightly pointed out by the learned counsel appearing for the second respondent, the land acquisition proceedings started as early as in 1991 and 24 years have gone and the petitioner has not challenged the land acquisition proceedings at any point of time. It is rightly pointed out by the second respondent that during the award enquiry, the petitioner only stated that he only wanted to enhance the compensation and he was ready to hand over the possession. Accordingly, the petitioner handed over the possession to the second respondent. Since the petitioner himself had come forward and handed over the possession voluntarily, there does not arise any question for re-conveyance. The petitioner himself voluntarily stated in the award enquiry that he was not opposing the acquisition and he wanted only the higher compensation. Accordingly, the award was passed on 10.06.1994. At request of the petitioner, Section 18 reference was made and the said reference was numbered as L.A.O.P.No.460 of 1996 dated 16.06.1998 and a sum of Rs.4,50,000/- was fixed per acre. Thereafter, in the appeal suit in A.S.No.188/1999, the compensation was reduced from Rs.4,50,000/- to Rs.3,60,000/- per acre by this Court and totally, the enhanced compensation amount is Rs.55,79,165/-. After deducting income tax, a sum of Rs.50,14,446/- was already deposited before the Sub Court, Hosur on 12.10.2012 and the amount is said to have been withdrawn by the petitioner. When the possession was taken and the compensation was received by the petitioner, without any objection, invocation of Section 45-B of Land Acquisition Act, 1894 is nothing but abuse of

process of law. Merely because there is a provision in the statute, he cannot invoke the said section according to his whims and fancies.

8. Once the acquisition proceeding was over and the award amount was paid to the petitioner, he ceased to have connection with the land and State becomes the owner of the property. It is like a sale. Once it becomes the property of the State, the petitioner cannot ask for re-conveyance as a matter of right.

9. The Hon'ble Supreme Court in Tamil Nadu Housing Board vs. Keeravani Ammal and others reported in (2007) 9 SCC 255 held in paragraph No.15, which has been extracted hereunder:-

15. We may also notice that once a piece of land has been duly acquired under the Land Acquisition Act, the land becomes the property of the State. The State can dispose of the property thereafter or convey it to anyone, if the land is not needed for the purpose for which it was acquired, only for the market value that may be fetched for the property as on the date of conveyance. The doctrine of public trust would disable the State from giving back the property for anything less than the market value. In State of Kerala v. M. Bhaskaran Pillai in a similar situation, this Court observed: (SCC p.433, para4)

"The question emerges whether the Government can assign the land to the erstwhile owners? It is settled law that if the land is acquired for a public purpose, after the public purpose was achieved, the rest of the land could be used for any other public purpose. In case there is no other public purpose for which the land is needed, then instead of disposal by way of sale to the erstwhile owner, the land should be put to public auction and the amount fetched in the public auction can be better utilised for the public purpose envisaged in the Directive Principles of the Constitution. In the present case, what we find is that the executive order is not in consonance with the provision of the Act and is, therefore, invalid. Under these circumstances, the Division Bench is well justified in declaring the executive order as invalid. Whatever assignment is made, should be for a public purpose. Otherwise, the land of the Government should be sold only through the public

auctions so that the public also gets benefited by getting a higher value".

10. From the above, it is clear that even if the property is not needed for the purpose for which it was acquired, the State can dispose of the property, thereafter, re-convey to anyone. In this case, the said situation does not arise as the second respondent/Housing Board is making use of the property for housing scheme. Therefore, no right is available to the petitioner to ask for Mandamus. Especially, the property is very much needed and it is fully utilised by the second respondent. Therefore, the writ petition fails and the same is dismissed. No costs. Consequently, the connected Miscellaneous Petition is also closed.

Sd/-

Deputy Registrar(J)

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Sub Assistant Registrar

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To

- 1.The Secretary,  
The State of Tamil Nadu,  
Housing and Urban Development Department,  
Fort St.George, Chennai 600 009.
- 2.The Managing Director,  
Tamil Nadu Housing Board,  
No.493, Anna Salai, Nandanam,  
Chennai 600 035.

+1cc to Mr.V.Anandhamurthy, Advocate, S.R.No.47721  
+1cc to Mr.V.Ravi, Advocate, S.R.No.47522

W.P.No.23772 of 2015

NM(CO)  
CA(23/09/2015)

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