

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2015

CORAM

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE M.M.SUNDRESH

W.A.Nos.412 and 413 of 2000

W.A.No.412 of 2000

The Tamilnadu Housing Board
Rep. By its Chairman,
Nandanam, Chennai. .. Appellant

-vs-

1.S.M.Kamala (deceased)
2.The State of Tamilnadu,
rep. by the Commissioner and
Secretary to Government,
Housing and Urban Development
Dept., Fort St. George, Madras.
3.R.Chandra Sekaran
4.C.Aravinth Kumar
5.C.Hari Ananth
(RR3 to 5 substituted as LRs. of
deceased R-1 vide order of Court
dt.5.11.2014 made in WA.MP.11/2014) ..Respondents

W.A.No.413 of 2000

The Tamilnadu Housing Board
Rep. By its Chairman,
Nandanam, Chennai. .. Appellant

-vs-

1.S.M.Ananthanayaki
2.The State of Tamilnadu,
rep. by the Commissioner and
Secretary to Government,
Housing and Urban Development
Dept., Fort St. George, Madras. ..Respondents

Appeals filed under Clause 15 of the Letters Patent, against the common order dated 06.12.1999, passed in W.P.Nos.12151 and 12152 of 1999 on the file of this Court.

W.P.Nos. 5852, 12151 and 12152 of 1999 Writ of certiorarified mandamus calling for the records of the I Respondent in letter No.35773 (Per-3) (1) 98-2 dated 10.3.1999 and quash the order passed herein and direct the 1st Respondent to transfer the petitioners land comprised in Survy No.11/1 measuring the Southern 82.4 cents in W.P.No.12151/99 and Notheren 82.5 cents in W.P.12152/99 count of 1.65 acres comprised in the said Survey number in Ponmani Village, Madurai Taluk as requiered under section 48-B of the land Acquisition Act (Tamil Nadu Amendment Act 1996 act 16 of 1997) respctively.

For Appellant : Mr.S.Gomathinayagam
Addl. Adv. General
Asst. by Mr.C.Kasirajan

For Respondents : Mr.R.Muthukumaraswamy, S.C.
For Mr.K.S.Karthik Raja for RR3 to 5 in
W.A.No.412 of 2000 and for R-1 in
W.A.No.413 of 2000
: Mr.V.R.Kamalanathan,
Addl. Govt. Pleader for R-2
: R-1 died in W.A.No.412 of 2000

J U D G M E N T

(Judgment of the Court was delivered by The Hon'ble Chief Justice)

The appeals are directed against the impugned order of the learned Single Judge granting relief to the respondents/land owners under Section 48-B of the Land Acquisition Act, 1894.

2.It has been brought to our notice that the respondents had preferred writ petitions before this Court being W.P.Nos.11409 of 1995 and 11416 of 1995 seeking re-allotment of land to them under the same provision. These petitions were dismissed by the order dated 30.04.1997, which was not assailed further and became final. The findings arrived at in the said order are that the possession already stands taken over by the appellant, of course, compensation already stands received by the respondents.

3.There has been complete concealment of the earlier proceedings in the fresh proceedings, which have emanated in the impugned order. It is not even open to the respondents to plead whether possession is with them, because there is a finding against

them qua this issue. Be that as it may, the earlier proceedings concluded the issue qua the respondents and there could not have been initiation of fresh proceedings.

4. We are of the view that the writ petitions filed by the respondents suffer from concealment of material fact and mis-disclosure of the facts, though learned senior counsel for the respondents did endeavour to contend that while dismissing the earlier writ petitions, it had been observed that such dismissal would not affect the Government or any other authority to consider the claim of the respondents, if any such claim or representation is made and that the respondents, in pursuance to such observation, had made their representations. This, however, does not take away the very concealment of the factum of the earlier proceedings and the impugned order is, thus, based on suppression of material facts by the respondents.

5. In the discretionary remedy under Article 226 of the Constitution of India, such concealment is both material and fatal to the respondents. We, thus, set aside the impugned order and dismiss the writ petitions filed by the respondents.

6. Writ Appeals, accordingly, stand allowed. No costs, in view of the fair stand taken by the learned senior counsel for the respondents.

Sd/-
Deputy Registrar (Judicial)

/true copy/

Sub Asst. Registrar

sra

To

1. The Chairman,
Tamilnadu Housing Board
Nandanam, Chennai.

2. The Commissioner and
Secretary to Government,
Housing and Urban Development
Dept., Fort St. George, Madras.

1 cc to Mr. C. Kasirajan, Advocate, Sr. 1086

1 cc to M./s. K.s. Karthik Raja, Advocate, Sr. 876

W.A.Nos.412 and 413
of 2000

RK (CO)
kk 21/1