

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.06.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.22837 of 2013
&
M.P.Nos.2 & 3 of 2013

SAJJAN DEVI MEHTA

[PETITIONER]

Vs

- 1 THE GOVERNMENT OF TAMIL NADU
REP. BY ITS SECRETARY TO GOVERNMENT
HOUSING & URBAN DEVELOPMENT DEPARTMENT
FORT ST. GEORGE, CHENNAI-600 009.
- 2 CHENNAI METROPOLITAN DEVELOPMENT AUTHORITY
REP. BY ITS MEMBER SECRETARY
NO.1 GANDHI IRWYN ROAD
EGMORE, CHENNAI-6000 008.
- 3 THE DISTRICT REVENUE OFFICER
KANCHEEPURAM.
- 4 THE SPECIAL TAHSILDAR (LAND ACQUISITION)
MARAIMALAR NAGAR
KATTANKOLATHUR, CHENNAI.

[RESPONDENTS]

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of writ of Certiorarified Mandamus to call for the records of the 1st Respondent in their proceedings vide G.O.Ms.No.134 (Housing & Urban Development) Department dated 23.04.1998 and Letter (D) No.120 dated 24.07.2013 and quash the same and direct the 2nd Respondent to issue No Objection Certificate for the constructions and development of the lands in Survey No.544/1A and 544/1B to an extent of 0.67 cents situated at Thirkatchur Village, Chinglepet Taluk, Kancheepuram District on petitioner representation dated 06.11.2012.

For Petitioner : Mr.E.Martin Jayakumar
For Respondents : Mr.R.Lakshmi Narayanan
Addl.Govt.Pleader-R1,3,&4
Mr.A.Kumar - R2

O R D E R

Heard Mr.E.Martin Jayakumar, learned counsel for the petitioner, Mr.Mr.R.Lakshmi Narayanan, learned Additional Government Pleader appearing for R1, R3 & R4 and Mr.A.Kumar, learned counsel appearing for the second respondent and with the consent of the learned counsel appearing for the parties, the Writ Petition is taken up for final disposal.

2.The petitioner seeks for issuance of a writ of certiorarified mandamus to quash Government Order in G.O.Ms.No.134 (Housing & Urban Development) Department dated 23.04.1998 and the communication dated 24.07.2013 and to direct the second respondent to issue No Objection Certificate for the constructions and development of the lands in Survey No.544/1A and 544/1B to an extent of 0.67 cents situated at Thirkatchur Village, Chinglepet Taluk, Kancheepuram District on petitioner representation dated 06.11.2012.

3.The petitioner claims to have purchased the property in question by a registered sale deed dated 03.02.2006, registered as Document No.1052 of 2006, on the file of the Sub-Registrar, Chengalpattu.

4.From the recitals in the said Sale Deed, it is seen that the original owner was Mrs.A.H.Kharer Bee, who is said to have purchased the properties by various sale deeds registered in the year 1963. Mrs.A.K.Kharer Bee, is said to have died on 24.06.2000 and her daughter and son obtained legal heirship certificate during 2004 and they have executed sale deed in favour of the petitioner. The learned counsel for the petitioner admits that the lands which have been purchased were subject matter of land acquisition proceedings, the entire land acquisition proceedings culminated and the lands were acquired for the purpose of development of project by the second respondent, CMDA.

5.The only contention raised by the petitioner is that after the lands were acquired, the Government passed an order in G.O.Ms.No.497, Housing and Urban Development Department dated 23.3.1987, by which a

decision was taken to exclude an extent of 25.92 acres of land in Thirukatchur village from the acquisition proceedings. Though such a Government Order was issued, it appears that no notification in this regard was passed, but by subsequent a Government Order in G.O.Ms.No.134 dated 23.4.1998, the aforesaid earlier Government Order in G.O.Ms.No.497 dated 23.04.1998, was cancelled. The petitioner would state that the Government Order in G.O.Ms.No.134 dated 23.4.1998 was challenged by several persons and those Writ Petitions were allowed and the said Government Order was quashed. Consequently, the said land owners were able to develop the property, after obtaining no objection certificate from the CMDA. Therefore, the petitioner has now approached this Court to quash the said Government Order in G.O.Ms.No.134, which was issued in the year 1998, to enable him to develop the property.

6.By referring to the submissions made in the counter affidavit, the learned counsel for the petitioner points out that three writ petitions were allowed by this Court viz. W.P.No.13934 of 2004 dated 12.5.2004, W.P.No.9531 of 1998 dated 26.4.2007 and W.P.No.17210 of 2008 dated 16.9.2009. It is submitted that since all the three writ petitions were allowed and G.O.Ms.No.134 was quashed in so far as those petitioners are concerned, prayed that similar benefit should be extended to the petitioner herein.

7.This submission made by the petitioner is seriously resisted by the learned counsel for the second respondent, by submitting that the petitioner is not the original land owner and he is a subsequent purchaser, the lands which is now claimed by the petitioner bearing Survey No.544/1A and 544/1B, measuring an extent of 67 cents was acquired by CMDA for development of New Satellite Town at Maraimalar Nagar, an award was passed on 19.9.1986 in Award No.13 of 1986 and the compensation amount has been fully paid to the land owners and CMDA is in possession of the property and patta has been issued in favour of CMDA bearing Patta No.69. Therefore, it is submitted that the request made by petitioner was rightly rejected. In this regard, the learned counsel for the second respondent also placed reliance on the decision of this Court in W.P.Nos.10236 of 1998, 7110 of 1999 and 9437 of 2006 dated 17.10.2008, wherein similar relief sought for was rejected.

8.After hearing the learned counsel for the parties and perusing the materials placed before this Court, it is to be pointed out that the petitioner was not the original owner from whom the lands were acquired. It is not in dispute that the lands were acquired and Award was passed in 1986 in Award No.13/86, the original land owners did not question the acquisition proceedings. In the interregnum a decision taken by the Government to delete certain lands from

acquisition, however, the same did not fructify as subsequently the Government cancelled the earlier order vide G.O.Ms.No.134 dated 23.4.1998.

9.It may be true that some of the land owners had challenged G.O.Ms.No.134 by filing Writ Petitions from 1998 to 2006 and those Writ Petitions have been allowed. It has to be pointed out that the lands in Survey Nos.544/1A and 544/1B were not covered in the earlier Writ Petitions. In fact, three other Writ Petitions seeking for identical relief were dismissed by this Court viz. W.P.No.10236 of 1998, W.P.No.7110 of 1999 and W.P.No.9437 of 2006 dated 17.10.2008.

10.Before going into the effect of the earlier orders passed by this Court, it has to be pointed out that the petitioner has absolutely no locus standi to seek for the present relief, since the petitioner is a subsequent purchaser of the land, much after the acquisition proceedings attained finality. Admittedly, the original owner did not question the Government Order in G.O.Ms.No.134 dated 23.4.1998. Therefore, the acquisition proceedings attained finality on and after the Award which was passed on 19.9.1986. Therefore, though the original land owner died in 2000, even the legal heirs had no right to question G.O.Ms.No.134, since by then the land acquisition proceedings had attained finality. In fact, this very issue was considered by this Court in W.P.No.10236 of 1998 etc. batch dated 17.10.2008, and this Court while dismissing the Writ Petitions observed as hereunder:

"19. As regards the last question whether the petitioners are entitled for any notice before cancellation of the provisional exclusion made by the impugned order, it must be stated that the petitioners are neither original owners of the land nor beneficiaries of the exclusion G.O. They are only subsequent purchasers. Their claim to be in physical possession is against the teeth of the Award passed by the State acquiring the land in question. Since either under Section 48 or under any other provisions of the Land Acquisition Act, they are eligible for any exclusion, the question of any notice being given to the subsequent purchasers or persons, who came into possession subsequently will not arise. The unreported decision referred to above, relied on by the learned counsel for the petitioner, does not take note of the authoritative pronouncements of the Supreme Court in this regard

and, thence, it does not help the case of the petitioner in any way.

20. In the light of the same, all the writ petitions will stand dismissed. Consequently, the connected miscellaneous petitions are also dismissed. However, there will be no order as to costs. "

11. In the light of the above facts, the petitioner or his vendors had no locus standi to question G.O.Ms.No.134 dated 23.04.1998, since the land acquisition proceedings had attained finality in 1986 itself and hence the petitioner cannot now seek to question G.O.Ms.No.134. Hence, the relief sought for in the Writ Petition cannot be granted.

12. In the result, the Writ Petition fails and the same is dismissed and the impugned order is held to be valid. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

rpa

To

- 1 THE SECRETARY TO GOVERNMENT
THE GOVERNMENT OF TAMIL NADU
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FORT ST. GEORGE, CHENNAI-600 009.
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4 THE SPECIAL TAHSILDAR (LAND ACQUISITION)
MARAIMALAR NAGAR
KATTANKOLATHUR, CHENNAI.

1 CC to Mr.E.Martin Jayakumar, Advocate SR.No. 28308

1 CC to Mr.A.Kumar, Advocate SR.No. 28364

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bvr (CO)
PSI (07.07.2015)



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