

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON : 19/12/2014
DATED : 01/06/2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.25299 of 2012 &
M.P.No.1 of 2012 and M.P.No.1 of 2013 &
M.P.No.1 of 2014

M/s.Ramcons (India) Properties Pvt. Ltd.,
Rep. by its Managing Director,
K.Ramanujam,
No.143, Kodambakkam High Road,
Nungambakkam,
Chennai-600 034.

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary to
Department of Housing and Urban Development,
Secretariat, Fort St.George,
Chennai - 600 009.
2. The Tamil Nadu Housing Board,
Rep. by its Chairman and Managing Director,
493, Anna Salai, Nandanam,
Chennai - 600 035.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for a Writ of Mandamus, to direct the respondents herein to re-convey the lands in admeasuring 77 cents in Survey No.87/1, Block No.24, AIBEA Nagar, Thiruvanmiyur Village, Chennai District to the petitioner herein within a time frame.

For Petitioner : Mr.A.R.L.Sundaresan, Senior Counsel
For M/s.J.Ravikumar

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

Mr.B.Vivekavanam for R-2

O R D E R

The petitioner submits that he is the owner in possession of the property admeasuring 77 cents in Survey No.87/1, Block No.24, AIBEA Nagar, Thiruvannamiyur Village, Chennai having purchased the same from Mr.A.S.D.Natarajan, under a registered sale deed dated 24.09.2004 on the file of Joint Sub Registrar, South Chennai, vide Document No.6425 of 2004 for a total sale consideration of Rs.1,15,00,000/-. The sale was absolutely in favour of the petitioner free of all encumbrances as per the terms of the said sale deed. It is pertinent to state that the said A.S.D.Natarajan had purchased the aforesaid property vide registered sale deed bearing Document No.2191 of 1967 dated 14.06.1967 from one Nandagopal Chettiar. The said Nandagopal Chettiar had purchased the said land in the year 1912 vide registered sale deed bearing Document No.463 of 1912, dated 09.02.1912. The petitioner further submits that the aforesaid land had been acquired by the first respondent herein for the benefit of the second respondent in the year 1978. However, no notice was issued to the owner Mr.A.S.D.Natarajan and he was not called upon for enquiry under Section 5A and the award also does not mention his name. It appears that the first respondent had initially notified an extent of Acres 96.90 for the purpose of Besant Nagar Extension Scheme, Phase-II and Section 6 Declaration under the Land Acquisition Act was issued only for an extent of Acres 70.81. The remaining Acres 26.10 was released from the acquisition proceedings. The first respondent passed award in respect of land admeasuring acres 42.63. Out of these lands, acres 10.26 was re-conveyed to the erstwhile owners and acres 9.63 were excluded and NOC was issued. An extent of 7.44 acres of land was allotted to Ramachandra Educational Trust and a mere 2.83 acres of land was utilized for construction of flats under the scheme of the second respondent. The subject lands however remained in possession of A.S.D.Natarajan.

2. The petitioner further submits that having regard to the fact that the substantial portion of the lands that were acquired was given up and the scheme could not be executed, the said A.S.D.Natarajan gave representation on 27.09.2005 seeking re-conveyance of the 77 cents of land. The 77 cents of land which was sought to be re-conveyed is unsuitable for development or for any other public purpose, since the lands surrounding the 77 cents of land have been excluded from the acquisition and belongs to various private parties. Hence, there is no access to the said 77 cents of land belonging to the petitioner and for the said reason, the second respondent appears to have had no objection to the re-conveyance which is evident from various communications between the inter-governmental authorities stated below. A letter dated 15.06.2005 sent by the Chief Revenue Officer, to the Deputy Secretary to Government, Housing and Urban Development Department finds A.S.D.Natarajan to be the rightful owner to enable the first

respondent to consider the plea of re-conveyance. There is a categorical finding by the Revenue Official that the third party claims including that of Mr.Kirubakaran is based on forged documents and the claim was rejected on merit after verification of all the documents produced by the said Kirubakaran with concerned Registration authorities. The petitioner further submits that despite holding that A.S.D.Natarajan is the rightful owner of the subject land, no orders were passed in the application for re-conveyance of land to A.S.D.Natarajan. Therefore, an application for reconveyance under the Right to Information Act was sought for by Mr.Natarajan from the first respondent. A reply dated 05.12.2007 was received from the first respondent stating as follows:-

"On the re-conveyance sought by you, although the Ex.Housing Minister on 24.02.2007 has given his consent, in this connection, the other petitioner-Thiru.Kirubakaran has filed a case in O.S.No.2693 of 2003, on the file of the City Civil Court, at Chennai, and obtained an ex-parte judgment and since at those times the same was found to be pending, the Government could not pass any orders on your application."

The petitioner further submits that the said letter also refers to the purchase of the land by the petitioner herein. It has been further stated that a report had been called for from the second respondent and is awaited. The first respondent concludes the letter by stating that he would not be in a position to pass orders on the application for re-conveyance until a report is sent by the second respondent herein.

3. The petitioner further submits that the third party litigation initiated by one Kirubakaran ended in dismissal of the Special Leave Petition filed by him against the second respondent. Hence, there is absolutely no embargo on the respondents to consider the request for re-conveyance of the property to the petitioner. The respondents had excluded and also re-conveyed vast extent of land that was acquired for the present scheme of the second respondent. However, the failure of the respondents to re-convey the lands of the petitioner while excluding adjacent lands is arbitrary and discriminatory. The petitioner further submits that the award of the first respondent is bad in law for want of notice to A.S.D.Natarajan who is admittedly the true owner of the subject land. The respondents having rejected the claim of all third parties including that of Kirubakaran, ought to have re-conveyed the land to the petitioner. On the other hand the respondents are attempting to interfere with the possession of the petitioner by taking advantage of the fact that the subject land is vacant by putting stones. The petitioner does not have the wherewithal to prevent any interference by the respondents on his own. Hence, the petitioner has filed the above writ petition.

4. The first respondent has filed a counter affidavit and resisted the writ petition. The first respondent further submits that the petitioner has filed the above writ petition for a writ of mandamus, to direct the respondents herein to re-convey the lands admeasuring 77 cents in Survey No.87/1, Block No.24, AIBEA Nagar, Thiruvannamiyur Village, Chennai District to the petitioner herein within a time frame. At the outset, it is submitted that the above writ petition has become infructuous as the first respondent has rejected the request of the petitioner for reconveyance by its letter No.2323/LA2(1)/10-22, Housing and Urban Development (LA2(1) Department, dated 31.12.2012. The first respondent further submits that the petitioner is not entitled to the relief sought for as he has suppressed the material fact that one Mr.Kirubakaran and 10 others have filed W.P.No.87 of 2006 for issue of Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the first respondent in letter No.27702/LA.2(1)/2005-2, dated 13.12.2005, quash the same and direct the first respondent to transfer 77 cents of lands comprised in Survey No.87/1 of Thiruvannamiyur Village, Chennai-41, to the petitioners herein. This Court, by order dated 30.08.2007 was pleased to set-aside the order dated 13.12.2005 and directed the first respondent to consider the re-conveyance of 77 cents after giving opportunity to the said writ petitioners and pass orders on merits in accordance with law within 12 weeks from the date of receipt of that order. The second respondent herein filed W.A.No.1522 of 2007 and the Division Bench of this Court by order dated 16.07.2009 was pleased to allow the writ appeal, setting aside the order of the learned Single Judge holding that no useful purpose will be served by remitting the matter to the first respondent herein for considering the request for re-conveyance. The petitioner in this writ petition was impleaded as the 13th respondent and he was represented by a Senior Counsel. After hearing the arguments on behalf of the petitioner herein also, the Writ Appeal filed by the second respondent herein was allowed by this Court holding that no useful purpose will be served by remitting the matter to the first respondent to consider the request for reconveyance.

5. The first respondent further submits that the writ petition is not maintainable either in law or facts. The petitioner has purchased the property only on 24.09.2004, whereas the Land Acquisition Proceedings was completed as early as in the year 1986 (i.e.) after the development of the acquired land. Further, the sale in favour of the petitioner is found to be not genuine and he is not the owner of the property in question. On verification of all the documents it was found that one Tmt.Padmini Chandrasekar was found to be owner. The first respondent further submits that the land comprised in Survey No.87/1 measuring an extent of 0.77 acre of Thiruvannamiyur Village was acquired under Award No.5/86

dated 23.09.1986 by the Land Acquisition Officer after duly observing all the formalities laid down in the Land Acquisition Act, 1894, (Central Act I of 1894) (hereinafter referred to as Act). After passing the said Award, the possession of the land bearing Survey No.87/1 measuring an extent of 0.77 acre was handed over to the Tamil Nadu Housing Board on 30.10.1986 by the Land Acquisition Officer and the same is vested with the Tamil Nadu Housing Board since then.

6. The first respondent further submits that since several representations were received from various persons seeking reconveyance of the land under reference, the Board has addressed the District Collector, Chennai District to find out the real owner of the land under reference. The Collector, Chennai District thoroughly analyzed all the documents relevant to the subject land and the documents submitted by the four claimants, viz., 1) Thiru.M.Kirubakaran, 2) M/s.Ramcons (India) Properties Pvt. Ltd., 3)Thiru.Sarvothaman and 4) Tmt.Anusuya and finally sent a detailed report to the Board, rejecting the claims of the above four persons and declaring Tmt.Padmini Chandrasekaran as the absolute owner of the land under reference and as per Will in document No.188/1975, dated 30.09.1975, the Trust formed by her in the name of her father M/s.Selvarajulu Chetty Trust is the rightful owner of the property. The first respondent further submits that the claim of M/s.Ramcons (India) Properties Pvt. Ltd., has been rejected by the District Collector, Chennai on the following grounds, viz.,

(i) The original owner Thiru.Nandagopal Chetty purchased the said property through document No.463/1912 dated 09.03.1912. The said Thiru.Nandagopal Chettiyar had died on 25.04.1922 vide the Death Certificate Registration No.660/22, dated 29.04.1922 issued by the Pondicherry Municipality of Union Territory of Pondicherry and the original owner Thiru.Nandagopal Chetty could not have sold the land to Thiru.A.S.D.Natarajan through document No.2191/1967, dated 14.06.1967 as the date of death of Thiru.Nandagopal was 25.04.1922. Hence, when the sale deed No.2191/1967 is not genuine the later document No.6425/2004 through which M/s.Ramcons (India) Properties Pvt. Ltd. is said to have purchased the land from Thiru.A.S.D.Natarajan has lost its credence.

(ii) Mrs.Padmini Chandrasekaran had become the absolute owner in pursuance of the Court auction sale in respect of the above land through sale order dated 04.05.1962 and confirmed on 14.09.1963 in document No.3078/63. The document submitted by M/s.Ramcons (India) Properties Pvt. Ltd., wherein it was stated that they have purchased the above land from Thiru.A.S.D.Natarajan lost its credence as the absolute owner in the year 1967 is Tmt.Padmini Chandrasekaran and not Thiru.Nandagopala Chetty, as he had expired in the year 1922 and hence, he could not have sold the land in the year 1967 to Thiru.ASD.Natarajan.

7. The first respondent further submits that the scheme such as construction of 40 High Income Group flats, 20 High Income Group flats, 16 and 32 numbers of High Income Group flats in 4 pockets have been taken up in this area and allotted to the public. Besides, the possession of the land is absolutely vested with the Board and the Board is taking action to implement the scheme. As such, the contention of the petitioner that the land remained in the possession of Thiru.A.S.D.Natarajan is not correct. The first respondent further submits that the correspondences made between the Tamil Nadu Housing Board and the Government in respect of land under reference could not be taken as an order, until it is communicated to the petitioner. The letter dated 15.06.2005 has been sent by the Chief Revenue Officer to the Government without properly verifying the documents. The first respondent further submits that all the reconveyance applications submitted by M/s.Ramcons (India) Properties Pvt. Ltd., Thiru.S.Sarvothaman, Tvl.V.Ramesh and V.Sivagami, Thiru.A.Baskar, Tvl.A.Shanmugam and A.Algirisamy to the Government were rejected by the Government vide its letter No.2323/LA2(1)/10-20 to 24 dated 31.12.2012 stating that the land under reference is essentially required to implement the Tamil Nadu Government Servants Rental Housing Scheme in the said land. The writ petitioner is also one among them. The first respondent further submits that Special Leave Petition No.267/2010 filed by one Thiru.M.Kirubakaran before the Hon'ble Supreme Court of India has been dismissed on 05.09.2011. The request of the writ petitioner to reconvey the land in question has also been rejected by the Government on 31.12.2012. The first respondent further submits that as per the District Collector of Chennai's report dated 03.08.2012, Thiru.A.S.D.Natarajan lost his credence, as the absolute owner in the year 1967 was Tmt.Padmini Chandrasekaran and not Thiru.Nandagopal Chetty, who expired in the year 1922 itself and hence, he could not have sold the land in the year 1967 to Thiru.A.S.D.Natarajan. As such, the contention of the petitioner that Thiru.A.S.D.Natarajan was the true owner is not correct.

8. The first respondent further submits that after completion of acquisition proceedings, possession of the land in question was taken by the acquisition officer and handed over to the second respondent on 30.10.1986. The second respondent is in possession and enjoyment of the same from that date onwards. Therefore, unless the order of status quo is vacated, the respondents will be put into irreparable loss and hardship.

9. The second respondent has filed a counter affidavit and resisted the writ petition. The second respondent submits that the land comprised in Survey No.87/1 measuring an extent of 0.77 acre of Thiruvannamiyur Village was acquired under Award 5/86, dated 23.09.1986 by the Land Acquisition Officer after duly observing all the formalities laid down in the Land Acquisition Act. After passing the said award, the possession of the land bearing Survey

No.87/1 measuring an extent of 0.77 acre was handed over to Tamil Nadu Housing Board on 30.10.1986 by the Land Acquisition Officer and the same is vested with the Tamil Nadu Housing Board since then. The second respondent further submits that since several representations are received from various persons seeking reconveyance of the land under reference, the Board has addressed the District Collector, Chennai District to find out the real owner of the land under reference. The Collector, Chennai District thoroughly analyzed all the documents relevant to the subject land and documents submitted by the four claimants and finally sent a detailed report to the Board rejecting the claims of above four persons and declaring Tmt.Padmini Chandrasekaran as the absolute owner of the land under reference as per the Will in document No.188/1975 dated 30.09.1975 and the Trust formed by her in the name of her father M/s.Selvarajulu Chetty Trust was the rightful owner of the property. Further, the claim of M/s.Ramcons (India) Properties Pvt. Ltd has been rejected by the Chennai Collector on the following grounds:-

(i) The original owner of the land Thiru.Nandagopal Chetty has purchased the land through document No.463/1912 dated 09.03.1912. The said Thiru.Nandagopal Chetty had died on 25.04.1922 as per the death certificate No.9594/2001, dated 03.01.2001 issued by the Pondichery Municipality of Union Territory of Pondichery and the original owner Thiru.Nandagopal Chetty could not have sold the land to Thiru.ASD.Natarajan through document No.2191/1967 dated 14.06.1967 as the death of Thiru.Nandagopal is on 25.04.1922. Hence, when the sale deed No.2191/1967 is not genuine, the later document No.6425/2004 through which Ramcons are said to have purchased the land from ASD Natarajan lost its credence.

(ii) Mrs.Padmini Chandrasekaran had become the absolute owner in pursuance of the Court auction sale in respect of the above land through sale order dated 04.05.1962 and confirmed on 14.09.1963 in document No.3078/63 and Thiru.ASD.Natarajan could have purchased only from Tmt.Padmini Chandrasekaran, as she is the absolute owner of the said land and it was not purchased from her by ASD.Natarajan. The document submitted by Ramcons that they have purchased the above land from Thiru.ASD.Natarajan lost its credence as the absolute owner in the year 1967 is Tmt.Padmini Chandrasekaran and not Thiru.Nandagopala Chetty who had expired in the year 1922 and hence, he could not have sold the land in the year 1967 to ASD Natarajan. On the above reasons, the claim of Ramcons construction is rejected.

10. The second respondent further submits that the scheme such as construction of 40 HIG flats, 20 HIG flats, 16 and 32 numbers of HIG flats in 4 pockets have been taken up in this area and allotted to the public. Besides, the possession of the land is absolutely vested with the Board and they are taking action to implement the scheme. As such, the contention of the petitioner is

totally wrong and baseless. The second respondent further submits that the correspondences made between Housing Board and Government in respect of land under reference could not be taken as an order, until it is communicated to the petitioner. As such, the letter dated 15.06.2005 sent by the Board to the Government is also one of the correspondence made between Board and Government. The second respondent further submits that all the reconveyance applications submitted by M/s.Ramcons (India) Properties Pvt. Ltd., Thiru.S.Sarvothaman, Tvl.V.Rameash and Ms.V.Sivagami, Thiru.A.Baskar, Tvl.A.Shanmugam and Thiru.A.Algirisamy to the Government are rejected by the Government vide its letter No.2323/LA2(1)/10-20 to 24, dated 31.12.2012 stating that the land under reference is essentially required to implement the Tamil Nadu Government Servants Rental Housing Scheme in the said land. The writ petitioner is also one among them. The second respondent further submits that SLP No.267/2010 filed by one Thiru.M.Kirubakaran before the Hon'ble Supreme Court of India has been dismissed on 05.09.2011. The request of the writ petitioner to reconvey the land in question has been rejected by the Government on 31.12.2012. The second respondent further submits that as per the report of the Collector of Chennai, dated 03.08.2012, Thiru.ASD.Natarajan lost his credence, as the absolute owner in the year 1967 is Tmt.Padmini Chandrasekaran and not Thiru.Nandagopal Chetty, who expired in the year 1922 and hence, he could not have sold the land in the year 1967 to ASD.Natarajan. As such, the contention of the petitioner that Thiru.ASD.Natarajan is the true owner is baseless and not sustainable before the law. In view of the circumstances explained above, the status quo ordered for three weeks on 27.12.2012 in M.P.No.1 of 2012 in W.P.No.25299 of 2012 in respect of the subject land should be vacated. Hence, the second respondent entreats the Court to dismiss the above writ petition.

11. The highly competent senior counsel Mr.A.R.L.Sundaresan appearing for the petitioner submits that the petitioner is the owner of the property to an extent of 77 cents in Survey No.87/1, Block No.24, AIBEA Nagar, Thiruvannamiyur Village, Chennai. He had purchased the same under a registered deed dated 24.09.2004, on the file of Joint Sub Registrar, South Chennai, after paying full sale consideration. From the date of purchase, the petitioner is in physical possession and enjoying the same. The said property sold by one Natarajan, who had valid marketable title deed at the time of executing the sale deed. The said property had been acquired by the respondents in the year 1978. However, the respondents had not issued any notice to the erstwhile owner for acquiring the said property. Initially, the respondents had acquired lands to an extent of 96.90 acres for a Neighbourhood Scheme, subsequently, the first respondent had released the lands to an extent of 26.10 acres.

12. The highly competent senior counsel appearing for the petitioner submits that the first respondent had passed award in respect of land admeasuring 42.63 acres. Out of these lands, the respondents re-conveyed the lands to an extent of 10.26 acres to the erstwhile owners. Besides 9.68 acres were excluded from the acquisition and issued No Objection Certificate. The rest of the acquired land, to an extent of 7.44 acres was allotted to Ramachandra Educational Trust. As such, the original purpose for forming Neighbourhood Scheme was not fulfilled by the respondents. Therefore, the acquisition proceedings is not valid. The erstwhile owner was in possession and enjoyment of the subject matter of the lands. The erstwhile owner had made a representation to the respondents to re-convey the said lands in the year 2005. The highly competent senior counsel appearing for the petitioner further submits that the Chief Revenue Officer had sent a letter dated 15.06.2005 to the Deputy Secretary who is attached to the Housing and Urban Development to reconsider the plea of the erstwhile owner for reconveyance. One Mr.Kirubakaran had also claimed ownership over the said lands that was subjected to acquisition proceedings. The erstwhile owner had made an application under the Right to Information Act to find out the status of the application regarding reconveyance, on the subject matter of the land, wherein, the first respondent had given reply stating that the Housing Minister has given consent on 24.02.2007 for the reconveyance of the said land. It clearly proves that the subject matter of the land is not required for the purpose for which it was acquired. One Mr.Kirubakaran had also claimed rights over the said land through a Court of law and this had proved futile. Therefore, the petitioner is the absolute owner of the property. The respondents had neither paid any compensation for the said land nor they are in possession.

13. The highly competent senior counsel appearing for the petitioner further submits that the land acquisition proceedings had been initiated in the year 1978 but the patta, chitta and the land revenue receipt were issued in the name of the erstwhile owner in the year 1996 and as such, the Government records pertaining to the said property had not been mutated in the name of the second respondent. Therefore, the acquisition proceeding for the said land had not been completed. The respondents had implemented the Neighbourhood Scheme to an extent of 2.83 acres and the rest of the land was re-conveyed to the erstwhile owner. Further, the first respondent had issued a communication dated 31.12.2012, which reveals that the subject matter of the land had not been utilized upto 31.12.2012. This Court was pleased to pass an order of status quo on 27.12.2012. As of today, the property is still vacant and occupied by the petitioner. The respondents had neither paid any compensation to the erstwhile owner nor to the petitioner herein. Therefore, the petitioner is entitled to get relief under Section 24(2) of the Right to Fair Compensation and Transparency in Land

Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30/2013), as except the petitioner, no one is having any civil rights or title over the said land. Hence, the highly competent senior counsel entreats the Court to allow the above writ petition.

14. The highly competent Additional Government Pleader Mr.M.S.Ramesh appearing for the first respondent submits that the first respondent had issued a Government Order in the year 1978 for acquiring the petitioner's land and the lands of others for a Neighbourhood Scheme. Therefore, after strictly adhering to the Old Act, the said land was acquired and the compensation amount was also paid to the landowners. After initiating Land Acquisition Proceedings in the year 1978, the same has been completed in the year 1986. Subsequently, the petitioner had purchased the said land in the year 2004 under a registered sale deed which is not valid since the subject landed property is belonging to the Housing Board. Now, the petitioner is claiming re-conveyance of the land on the strength of invalid sale deed. The erstwhile owner already made representation and claimed the same, but it was rejected after assigning valid reasons stating that the acquired land is absolutely required for the formation of a Neighbourhood Scheme. Now, the property is vested with the respondents herein. Hence, the highly competent Additional Government Pleader entreats the Court to dismiss the above writ petition.

15. The highly competent counsel Mr.B.Vivekavanan appearing for the second respondent submits that the the Land Acquisition Officer had given notification under Section 4(a) of the Act for acquiring the subject matter of the land to an extent of 0.77 acre at Thiruvanniyur Village and the lands of others had also been acquired for forming the Neighbourhood Scheme. The Tamil Nadu Housing Board has constructed flats for the High income Group and the same had been allotted to the public as such, the scheme had already been implemented. For the said land one Munuswamy had filed a claim petition and claimed enhanced compensation before the city Civil Court. The Executive Engineer who is attached to the Tamil Nadu Housing Board had issued eviction notice against one Prabakaran and 10 others and the same was carried out with the help of police protection. Now, the said land is lying vacant. The highly competent counsel further submits that the petitioner is the subsequent purchaser. The notification had been issued on 17.07.1978 and 5A enquiry was conducted. Subsequently, declaration was passed under Section 6 of the Act on 06.08.1981. Thereafter, an award had been passed on 23.09.1986 and possession had been handed over to the Tamil Nadu Housing Board on 30.10.1986. The highly competent counsel further submits that the petitioner and others had claimed re-conveyance and the same was rejected on the ground that one Tmt.Padmini Chandrasekar is the absolute owner of the property. Hence, the highly competent counsel entreats the Court to dismiss the above writ petition.

16. From the above discussions, this court is of the view that:-

(i) The respondent had initiated the Land Acquisition Proceedings in the year 1978 against the erstwhile owners and they made representation on 27.09.2005 and sought re-conveyance against the subject matter of the land. As such, the respondents had not utilized the said land for the purpose of Neighbourhood Scheme even after a lapse of around 37 years. Therefore, after a prolonged lapse of 37 years, it is evident that the Scheme has gone into oblivion and it can be considered only defunct, to say the least.

(ii) The first respondent had sent a communication to the petitioner and others and informed that the acquired lands is not feasible for re-conveyance, which also clearly proves that the acquired land had not been utilized for the purported said purpose after a lapse of 37 years. As such, the purpose for which, the land has been acquired i.e., for Neighbourhood Scheme has been annulled.

(iii) The Competent Authority, viz., the Executive Engineer and the Administrative Officer had written a letter to the second respondent herein on 10.09.2011 and informed him that the subject matter of the land is lying vacant. It clearly proves that the subject matter of the land is not absolutely required for the formation of Neighbourhood Scheme. As such, the land acquisition proceedings which had been initiated by the respondents had disturbed the petitioner's landed property.

(iv) The respondents had not produced any documentary proof regarding mode of compensation paid to the landowner. Besides, there is no authenticated records, viz., name board, fencing and personnel security in order to protect the valuable property, to prove the allegations of the respondents that they are in physical possession. Therefore, the petitioner is entitled to receive relief under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30/2013), besides, the revenue records viz., chitta, patta and land tax receipts which had been issued in the year 1996 by the Revenue Authorities, lie in the name of the erstwhile owner. Further, the second respondent had not produced any authenticated documents pertaining to the said land regarding mutation in the name of Tamil Nadu Housing Board.

(v) The declaration was passed under Section 6 of the Land Acquisition Act on 06.08.1981 and an Award No.5 of 1986 had been passed on 23.09.1986. It clearly reveals that the award had not been passed within a stipulated period as per the Act and as such, the acquisition proceedings had not been strictly adhered to. Hence, the acquisition proceedings are lapsed and not recognized by law.

(vi) The second respondent herein had filed typed set of papers, wherein, he had annexed a copy of the L.A.O.P.No.89 of 1987, on the file of the City Civil Court, Madras, wherein one Munuswamy had claimed enhanced compensation for the subject matter of the land against the second respondent. The learned City Civil Court Judge had confirmed the said award in Award No.5 of 1986, dated 23.09.1986. The same second respondent, has now stated in his counter statement that one Tmt.Padmini Chandrasekar is absolute owner of the said land and as such, the second respondent herein has given an inconsistent statement. Therefore, with regard to ownership, this Court is unable to take any decision in the absence of clear title deeds.

17. 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 and the views of this Court as mentioned above (i) to (vi), this Court allows the above writ petition. Consequently, this Court directs the respondents herein to re-convey the lands admeasuring 77 cents in Survey No.87/1, Block No.24, AIBEA Nagar, Thiruvannamiyur Village, Chennai District to the petitioner herein within a period of two months from the date of receipt of a copy of this order. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

r n s

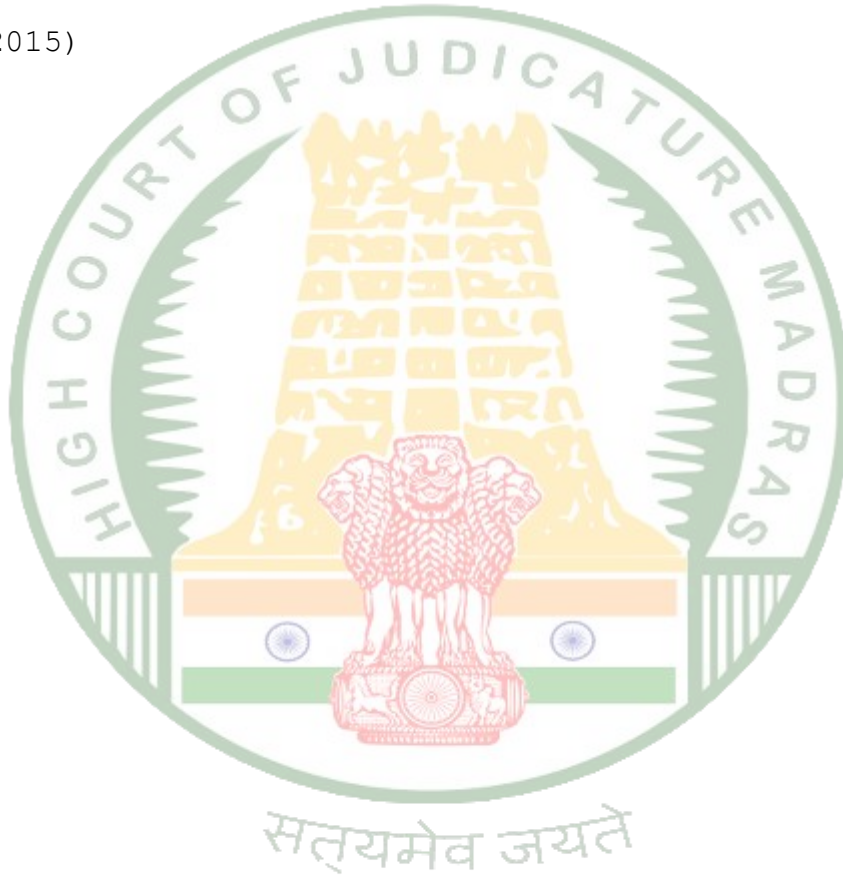
To

1. The Secretary to
Department of Housing and Urban Development,
Government of Tamil Nadu,
Secretariat, Fort St.George,
Chennai - 600 009.
2. The Chairman and Managing Director,
Tamil Nadu Housing Board,
493, Anna Salai, Nandanam,
Chennai - 600 035.

+3cc's to Mr.J.RaviKumar, Advocate, S.R.No.26030
+1cc to M/s.A.MuthuKumar, Advocate, S.R.No.25722
+1cc to Mr.B.Vivekavanam, Advocate, S.R.No.25838
+1cc to the Government Pleader, S.R.No.25784

W.P.No.25299 of 2012 &
M.P.No.1 of 2012 and M.P.No.1 of 2013 &
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UG (CO)
CA(12/06/2015)



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