

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2016

CORAM

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P.NO.16838 OF 2016

1.T.Prema

2.Umameshwari

... Petitioners

Vs.

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

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

3. The Special Tahsildar
(Land Acquisition)
Housing Scheme No.II
Coimbatore - 18.

.... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the respondents to dispose of the petitioners' representation dated 30.03.2016 with regard to re-conveyance of Land Acquisition Act under Section 48(B) for the extent of 1 acre 20 cents of land comprised in Survey No.963/2, Kalapatty Village, Coimbatore District.

For Petitioners : Dr.P.Vasudevan
for Mr.V.Chinnasamy

For Respondents : Mr.R.M.Muthukumar
Government Advocate

O R D E R

Heard Dr.P.Vasudevan, for Mr.V.Chinnasamy, learned counsel appearing for the petitioners and Mr.R.M.Muthukumar, learned Government Advocate, accepting notice on behalf of the respondents. By consent of the learned counsel on either side, the writ petition is taken up for final disposal.

2.The petitioners seek for issuance of writ of mandamus, directing the respondents to dispose of their representation dated 30.03.2016 under Section 48-B of the Land Acquisition Act, for re-conveyance of the land/property, which was acquired.

3.Earlier, few of the original owners of the lands had filed writ petition in W.P.No.32922 of 2012, which was disposed of by this Court, by order dated 03.02.2016, on the following lines:

"4.Writ petitions have been filed on 06.02.2013, when the sales were effected much prior to the date. Faced with the situation, learned counsel for the petitioners submitted that the petitioners, in their individual capacity, may be granted liberty to pursue the matter before the Government in so far as the extent of land retained by them as on date.

5.In the light of the above submissions, this writ petition is disposed of, while upholding the order dated 31.08.2012 passed by the first respondent. It is left open to the petitioners to submit a fresh representation to the first respondent for re-conveyance in respect of the extent of land which is said to be retained by them."

4.The present petitioners are subsequent purchasers, who have purchased the lands and they have sought for excluding the lands from acquisition, by passing orders under Section 48-B of the Land Acquisition Act.

5.The learned counsel for the petitioners submitted that even if the petitioners are subsequent purchasers, they are entitled to seek for re-conveyance, which was taken note of by this Court, while passing order in W.P.No.9221 of 2015 dated 31.03.2015, wherein the following observations have been made:

"4.Insofar as another batch of cases, where re-conveyance was directed to be granted, the Housing Board filed separate writ appeals in W.A.Nos.252 to 255/2011 and those appeals were also dismissed, by Judgment dated 16.08.2011 [TNHB Vs. UMA MAHESWARI RAMASAMY AND OTHERS] reported in [2011] 7 MLJ 849. Against the said decision, the TNHB preferred Special Leave Petitions before the Hon'ble Apex Court in SLA [Civil] Nos.6063 to 6066/2012 which were dismissed by the Hon'ble Apex Court, vide Judgment dated 13.04.2012. With these facts, the

petitioner has now approached the Tahsildar for issuance of patta. Taking note of the above legal position and the lands having already been excluded and though the petitioner may have been the subsequent purchaser, that will not be a ground to deny the relief to the petitioner. In fact, this issue was also considered by the Division Bench of this Court in UMA MAHESWARI RAMASAMY's case [cited supra], wherein in paragraph 11 of the Judgment, it was held that there can be no difference between the land owner and the subsequent purchaser and if differential treatment is accorded to such persons who are subsequent purchasers, it would be discriminative. Therefore, the petitioner is entitled for grant of patta in the light of the above legal position.

5. Accordingly, the writ petition is disposed of by directing the petitioner to file appropriate application for grant of patta along with a copy of this order before the concerned revenue Tahsildar and on receipt of such application from the petitioner, the Revenue Tahsildar, shall take note of the above legal position and consider the application for grant of patta and grant the same if there is no other legal impediment within a period of three months from the date of receipt of such application. No costs."

6. The learned Government Advocate appearing for the respondents submitted that the petitioners may be directed to forward a copy of the representation, to the first respondent, along with a copy of this order, so as to enable the first respondent to consider the same and pass orders.

7. In the light of the above, the writ petition is disposed of, by directing the petitioners to send a copy of the representation dated 30.03.2016, along with a copy of this order, to the first respondent, who shall consider the same, on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

TK

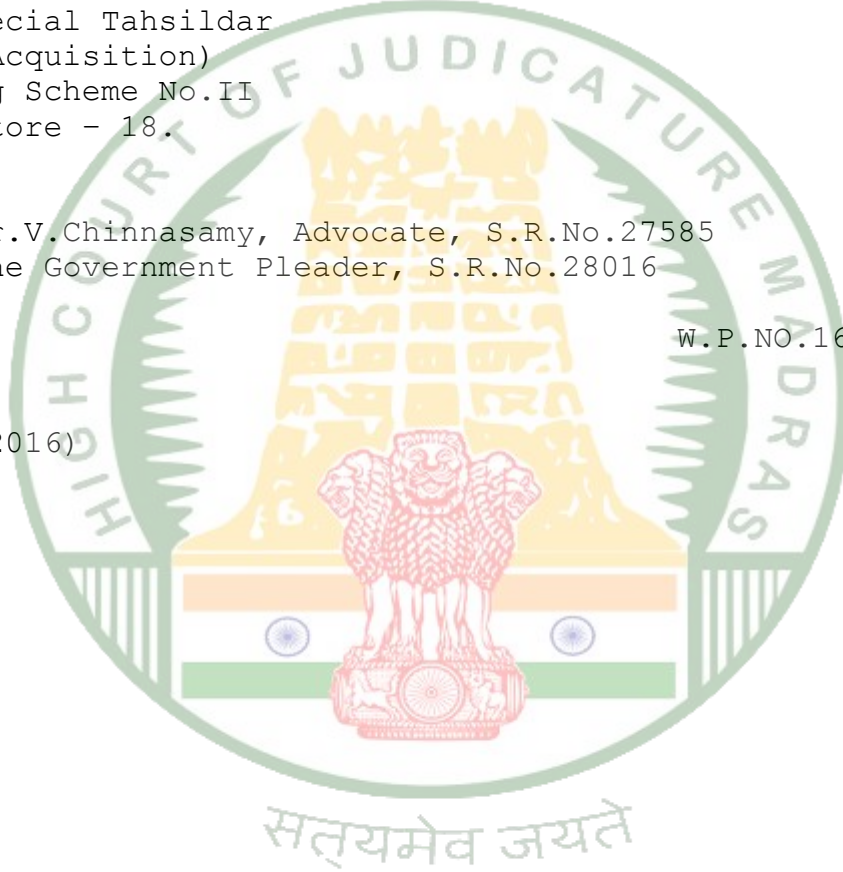
To

1. The Secretary to Government
Government of Tamil Nadu
Department of Housing and Urban Development
Fort St. George, Chennai - 600 009.
2. The Chairman and Managing Director
Tamil Nadu Housing Board
Nandanam, Chennai - 600 035.
3. The Special Tahsildar
(Land Acquisition)
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+1cc to Mr.V.Chinnasamy, Advocate, S.R.No.27585
+1cc to the Government Pleader, S.R.No.28016

W.P.NO.16838 OF 2016

MP (CO)
CA(02/06/2016)



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