

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 18.03.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.33402 of 2015

Rajeswari Venkatesan

[PETITIONER]

Vs

- 1 The State of Tamil Nadu
Rep. by its Commissioner and Secretary
Housing and Urban Development Department
Fort St. George Chennai-9.
- 2 The Chairman cum Managing
Director Tamil Nadu Housing Board
Nandanam , Chennai-35.
- 3 The Executive Engineer and
Administrative Officer
Salem Housing Unit
Tamil Nadu Housing Board
Ayyanthirumaaligai
Salem-8.
- 4 The Special Tahsildar (Land Acquisition)
Neighbourhood Scheme
Salem, Salem District.

[RESPONDENTS]

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Declaration, to declare that the Land Acquisition Proceedings initiated under the Land Acquisition Act, 1894 in respect of land bearing Survey Nos.241/6 at Jakkir Amma Palayam Village, Salem Taluk, Salem District measuring an 0.47.0 hectares covered by Notification issued under Section 4(1) of Land Acquisition Act 1894 vide G.O.Ms.No.525 Housing and Urban Development Department dated 25.5.1985 and Declaration under Section 6 of Land Acquisition Act 1894 vide G.O.Ms.No.1408 Housing and Urban Development Department dated 3.9.1986 deemed to have lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Re-Settlement Act 2013.

For Petitioner : Mr.V.Manoharan

For Respondents : Mr.R.M.Muthukumar, R1 & R4
Govt.Advocae

Mr.S.Gomathi Nayagam,
Addl.Advocate General - R2 & R3
asstd by Mr.R.V.Babu

O R D E R

Heard Mr.V.Manoharan, learned counsel appearing for the petitioner, Mr.R.M.Muthukumar, learned Government Advocate, appearing for respondents 1 & 4 and Mr.S.Gomathi Nayagam, learned Additional Advocate General, assisted by Mr.R.V.Babu, learned counsel appearing for respondents 2 & 3 and with the consent of the learned counsel on either side, the Writ Petition is taken up for final disposal.

2.The Petitioner has filed this Writ Petition, to declare the land acquisition proceedings initiated under the provisions of Land Acquisition Act, 1894 in respect of land bearing Survey Nos.241/6 at Jakkir Amma Palayam Village, Salem Taluk, Salem District measuring an 0.47.0 hectares covered by Notification issued under Section 4(1) of Land Acquisition Act 1894 vide G.O.Ms.No.525 Housing and Urban Development Department dated 25.5.1985 and the declaration under Section 6 of Land Acquisition Act 1894 vide G.O.Ms.No.1408 Housing and Urban Development Department dated 3.9.1986 deemed to have lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Re-Settlement Act 2013.

3.The petitioner was the owner of the subject property and she purchased the same during 1979 and constructed a pucca house in part of the property and cultivating the remaining extent of land. The said lands were subject matter of acquisition proceedings, which commenced with the issuance of a Notification under section 4(1) of the Land Acquisition Act (in short 'Act') dated 25.05.1985, followed by a declaration under section 6 of the Act dated 03.09.1986.

4.The petitioner was unsuccessful in challenging the land acquisition proceedings and her request for re-conveyance was also rejected. Subsequently, the petitioner made a request for considering her representation for re-conveyance and since the said representation was not considered, she filed a Writ Petition in W.P.No.157 of 2015, which was disposed of by directing the respondents to pass orders, on merits and in accordance with law. Thereafter the petitioner has approached this Court, by way of this Writ Petition.

5.The contentions raised by the petitioner is that in terms of section 24(2) of the Act 30 of 2013, the entire land acquisition proceedings are lapsed, as the Award has not been passed within a period of five years. It is brought to the notice of this Court by the learned counsel for the petitioner that the very same notification, identical facts were put to challenge before this Court by other land owners in W.P.No.20238 of 2015 on identical grounds as raised in this Writ Petition. The Court took into consideration the factual aspects which have been referred to supra and following the decision of the Hon'ble Supreme Court, pointed out that the compensation was deposited only 03.12.2014, pursuant to the Award dated 31.08.1988 and accordingly, the said Writ Petition was allowed, holding that the land acquisition proceedings have lapsed.

6.In the case on hand, a counter affidavit was filed in Contempt petition No.2241 of 2015, stating that the Award was passed on 31.08.1988 and the Award amount has been deposited before the Sub Court, Salem on 28.11.2015. Further, in the counter affidavit filed in the said Contempt Petition, there was a categorical admission by the respondents that because of Writ Petitions filed by the land owners, the physical possession could not be taken over by the Land Acquisition Officer. The petitioner filed a reply affidavit to the counter affidavit, wherein the aforesaid fact has been mentioned. However, the respondents are not able to controvert the said submissions, since it is there own statement in the counter affidavit in the Contempt Petition.

7. Thus, by applying the law laid down by the Honourable Division Bench in the above referred decisions and in the light of the undisputed fact that after passing of the award, the possession of the land still remains with the petitioner/land owner, the provisions of Section 24(2) of 2013 Act would stand attracted and consequently, the entire land acquisition proceedings shall stand lapsed.

The Writ Petition stands allowed accordingly. No costs.

s/d-
Assistant Registrar(Admn.I)

True Copy

Sub-Assistant Registrar

To

1 The Commissioner and Secretry
State of Tamil Nadu
Housing and Urban Development Department
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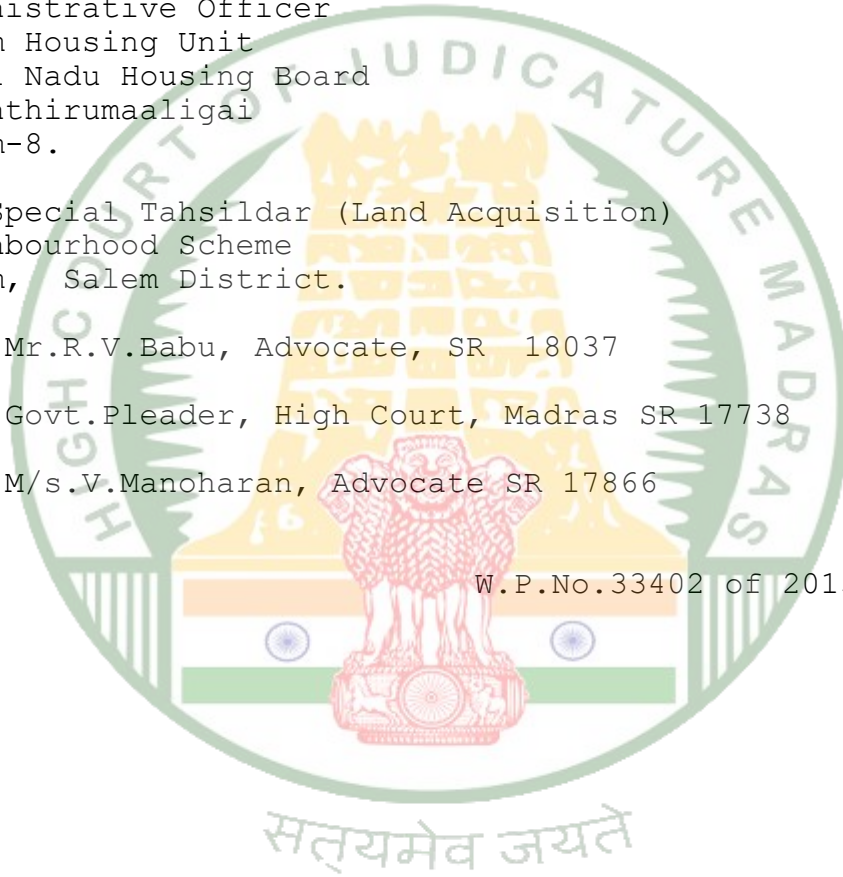
+ 1 cc to Mr.R.V.Babu, Advocate, SR 18037

+ 1 cc to Govt.Pleader, High Court, Madras SR 17738

+ 1 cc to M/s.V.Manoharan, Advocate SR 17866

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