

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Appeal No.967 of 2016
and
CMP.No.12429 of 2016

1. State rep. By its Secretary to Government,
Revenue Department,
Secretariat,
Chennai-600 009.
 2. The Special Commissioner,
(Urban Land Ceiling & Regularization),
Chepauk, Chennai-600 005.
 3. The Tahsildar,
The Guindy - Mambalam Taluk,
Ashok Nagar, Chennai-600 078. ... Appellants/Respondents
1, 2 & 4
- Vs.
1. Government Film and TV
Employees Welfare Association,
Rep. by its Secretary,
Mr.Subramaniam,
No.11, Amirtham Avenue,
Bharathi Street, Velachery,
Chennai-600 042. ... Respondent 1/Petitioner
 2. The Chairman,
Tamil Nadu Housing Board,
Nandanam, Chennai 600 035. ... Respondent 2/Respondent 3
 3. M.Baskar
 4. S.Menaka
 5. V.Mohan
 6. R.Vasanthi
 7. M.Mageswari
 8. R.Kaveri

9. M.Devaraj
10.Samundeeswari
11.Y.Mythily
12.S.Nirmala
13.S.Vijay
14.B.Kannan
15.M.Raja
16.J.Chandru
17.B.Madan Kumar
18.S.Nandakumar
19.D.Subash
20.M.Karvannan
21.S.Shanthi
22.R.Anand
23.N.Veni
24.T.Vettri
25.N.Jayakumar
26.V.Poomagal
27.P.Divya
28.R.Sivakumar
29.R.Moorthy
30.N.Elangovan
31.K.Muniammal
32.V.Prema
33.K.Sarathy
34.S.Sagunthala
35.M.Rajasekar
36.C.Clara
37.S.Aishwarya
38.Thenmozhi
39.G.Karunanithi
40.S.Mahalakshmi
41.Susai Raj

(R3 to R41 impleaded as per order
dated 30.07.2014 in MP.No.3 of 2014
in WP.No.919 of 2014)

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent, against the order dated 19.08.2014 made in W.P.No.919 of 2014 on the file of this Court.

W.P.No.919 of 2014 : Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Certiorarified Mandamus, calling for the concerned records relating to G.O.Ms.No.549/Revenue (ULC-I(2)) Department dated 31.12.2013 passed by the 1st respondent and quash the same and consequently direct the 1st respondent to allot the Lands to the extent of 6250 sq.metres of lands in S.Nos. 316/6B2 and 316/6D2 in Velachery Village Chennai Urban Agglomeration to petitioner Association.

For Appellants : Mr.S.T.S.Murthy,
Additional Advocate General
Assisted by Mrs.A.Srijayanthi,
Special Government Pleader

For Respondents : Mr.M.Gnanasekar (For R1)
Mr.Prabhu Mukunth Arunkumar
(for R3 to R28, 30, 32, 34 to 38,
40 and 41)

Mr.V.Anandhamurthy (For R2)
R29, R31, R33 and R39 - Not Ready

JUDGMENT

(Judgment of the Court was made by HULUVADI G. RAMESH,J.)

This Writ Appeal is filed by the Government as against the order of the learned Single Judge dated 19.08.2014 passed in W.P.No.919 of 2014.

2.Heard the learned Additional Advocate General appearing for the appellants, learned counsel appearing for the 1st respondent and learned counsel appearing for the respondents 3 to 28, 30, 32, 34 to 38, 40 and 41.

3.The Government Film and TV Employees Welfare Association, represented by the Secretary filed the writ petition in WP.No.919 of 2014 seeking direction to call for the concerned records relating to G.O.Ms.No.549 / Revenue (ULC-I(2)) Department, dated 31.12.2013 passed by the first respondent and quash the same and consequently direct the first respondent to allot the lands to the extent of 6250 sq. metres in S.Nos.316/6B2 and 316/6D2 in Velachery Village, Chennai Urban Agglomeration to the petitioner Association.

4.The case of the first respondent in the Writ Appeal, who is the writ petitioner in W.P.No.919 of 2014 is that the petitioner/Association is registered under the Societies Registration Act, vide registration No.115/1999. The petitioner's association has around 32 members and the said Association was established for the Welfare of the employees in the Tamil Nadu Government Film and TV Institute. The said Association is working towards the welfare of its members and for such welfare, the association had Launched a scheme for

providing residential plots to its members on a community house basis. The said Association had made a representation to the Director, Urban Land Society and Regulation on 01.03.2006. In the said representation, the petitioner's Association had requested the Director to provide residential plots to its members under housing scheme. The petitioner's Association had also informed that vacant lands are situated in S.Nos.316/6B2 and 316/6D2 of Velacherry Village of a total extent of 4650 sq. mts. and 1600 sq. mts. The petitioner's Association requested the Director to allot the above said lands for their housing scheme and further informed that the said lands are vested with the Government of Tamil Nadu by virtue of acquisition under the Urban Land Ceiling Act. The Petitioner/Association had also informed that the lands had been under their maintenance and protection from the year 1985.

5.The petitioner made request to the Government for allotment of the land and further sent their request to the Deputy Secretary, who vide letter ref.Lts.No.20414/Na Nee/1(2) 2006-5, dated 10.10.2007 directed the second appellant to enquire as to the status and details with regard to the allotment of the said lands to the petitioner/Association. Based on the report filed, the Government passed G.O.Ms.No.549, dated 31.12.2013 stating that as per the direction of this Court in W.P.No.23629 of 2013 dated 21.10.2013 the representation dated 07.08.2013 given by the petitioner / Association for allotment of land in S.No.316/6B2 and 316/6D2 in Velachery Village for their housing scheme and also to allot the house site to their members was examined. The impugned G.O. has further stated that the said lands has already been allotted to the Tamil Nadu Housing Board, by the Government vide G.O.Ms.No.733/Rev. Department, dated 25.05.1985. It was also stated that one Thiru.S.Ramakrishnan filed a writ petition in W.P.No.11205 of 2008 before this Court against the acquisition of his land in S.No.316/6B2 at Velacherry Village, which is pending before this Court. Therefore, the Government after careful examination of the matter, rejected the request of the petitioner / Association for the allotment of 6250 sq. mts. in S.No.316/6B2 and 316/6D2 in Velacherry Village.

6.Challenging the above rejection order in G.O.Ms.No.549, dated 31.12.2013, the first respondent herein, who is the writ petitioner in W.P.No.919 of 2014 filed the writ petition on various grounds.

7.Pending the above writ petition, respondents 3 to 41 were impleaded as per the order in M.P.No.3 of 2014 in W.P.No.919 of 2014 dated 30.07.2014. They were impleaded on the grounds that they were originally allottees of the land through the Bharat

Ratna Dr.Ambedkar Housing Welfare Association, vide order passed in G.O.Ms.No.918, Revenue Department, dated 19.11.1998 and subsequently the said allotment was cancelled by G.O.Ms.No.48, Revenue Department, dated 30.01.2008. The impleaded respondents 3 to 45 challenged the said rejection by filing writ petition in W.P.No.5000 of 2011 and this Court by order dated 31.07.2012 directed the Government to allot alternate site to the said petitioners. Therefore, pending allotment of alternate sites, the respondents 3 to 45 were impleaded in W.P.No.919 of 2014.

8.Considering the grievance of the first respondent / writ petitioner, the learned Single Judge by order dated 19.08.2014 allowed the writ petition directing the Government to allot the lands to the extent of 6250 sq. metres situated in S.Nos.316/6B2 and 316/6D2 to the petitioner's Association with a further direction that the said exercise shall be completed within a period of 3 months.

9.Challenging the said order, the appellants /Government has filed the present Writ Appeal on various grounds.

10.The learned Additional Advocate General Mr.S.T.S.Murthy, appearing for the appellants stated that the land in question was already handed over to the Tamil Nadu Housing Board and the lands vested with the Tamil Nadu Housing Board as on date. Since the said lands now vest with the Tamil Nadu Housing Board, if the respondent Association approaches the Tamil Nadu Housing Board for allotment of the land on costs, the Government has no objections and the quashing of the G.O. by the learned Single Judge on the above facts and circumstances is not sustainable.

11.It is seen that the learned Single Judge considering the counter filed by the second respondent, in para-40 of the impugned order while considering the points raised, for the reasons stated therein, dismissed the writ petition in W.P.No.11205 of 2008 filed by S.Ramakrishnan, who had challenged the acquisition by allowing the other writ petitions.

12.Further it was held that the impleading applicants viz. Respondents 4 to 6 in the writ petition, WP.No.11205 of 2008 have no right or title and that attempt is being made to get hold of the said lands by forged documents. Learned Single Judge, accordingly, allowed W.P.No.919 of 2014 filed by the Association by quashing G.O.Ms.No.549 / Revenue (ULC-I(2)) Department dated 31.12.2013 directing the Government to allot the land to the extent of 6250 sq. metres of lands situated in S.No.316/6B2 and also in S.No.316/6D2 in Velachery Village, Chennai Urban Agglomeration to the petitioners Association and also directed that the entire exercise shall be completed within

a period of three months.

13. The submission of the learned Additional Advocate General is that due to the illegalities and irregularities committed by the Bharat Ratna Dr.Ambedkar Housing Welfare Association, in utter disregard and violation of the by-laws of the Association, on obtaining the requisite legal opinion, the Government took steps and passed the Government Order whereby the land, that vested with the said Association were directed to vest with the Housing Board and based on the request of the petitioner's therein for allotment, the Housing Board was to pass orders in accordance with law on considering the said request.

14.The factual matter, which is not in dispute is that the lands in question, had been allotted to the welfare Association and due to certain irregularities, the same stood vested with the Housing Board with a further direction that based on the request that may be made by the petitioner/Association therein, the same may be considered by the Housing Board in accordance with law and allotment be made. However, without taking into consideration the said fact, learned single Judge had ordered allotment of land to the 1st respondent herein at the cost to be evaluated by the Government as is likely to be given to the general public.

15.In the above backdrop, while this Court is not in agreement with the order passed by the learned single Judge, since the lands, which were allotted to Bharat Ratna Dr.Ambedkar Housing Welfare Association, due to certain irregularities and illegalities committed by the said Association, which tried to grab the properties by discriminating among the members of the Association, stood vested with the Tamil Nadu Housing Board subsequent to the order passed by the Government. The lands having been vested with the Tamil Nadu Housing Board, the relief prayed for by the petitioner/1st respondent for allotment of lands is not possible. However, if the petitioner/1st respondent so wishes, it is at liberty to approach the Tamil Nadu Housing Board by submitting a representation for allotment of the lands and the Tamil Nadu Housing Board, in its turn, shall consider the said representation of the petitioner/1st respondent and take a decision and pass orders thereon in accordance with law subject to the availability of lands and also subject to determining the cost of the land by the Housing Board as is done in normal circumstances.

16. The Writ Appeal is allowed in part with the aforesaid

observation. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vs

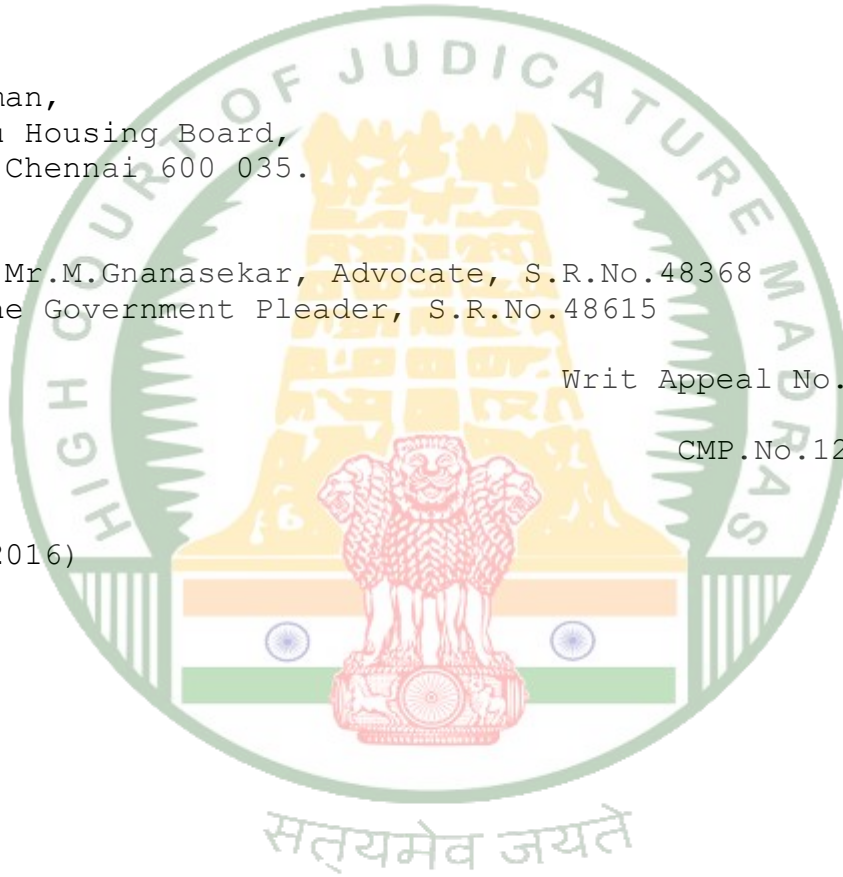
To

The Chairman,
Tamil Nadu Housing Board,
Nandanam, Chennai 600 035.

+2cc's to Mr.M.Gnanasekar, Advocate, S.R.No.48368
+1cc to the Government Pleader, S.R.No.48615

Writ Appeal No.967 of 2016
and
CMP.No.12429 of 2016

GJ(CO)
CA(28/09/2016)



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