

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2017

CORAM

THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HON'BLE MR.JUSTICE N.SESHASAYEE

W.A.No.475 of 2015
and
M.P.Nos.1 and 2 of 2015

The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 008. Appellant

-vs-

1. S.Balasubramaniam
2. The Government of Tamil Nadu,
rep.by its Secretary,
Housing and Urban Development Department,
Fort St.George, Chennai-600 009.
3. The Special Tahsildar (Land Acquisition),
M.M.Nagar Schemes,
Kattankulathur-603 203. ... Respondents

Appeal filed under Clause 15 of the Letters Patent, against the order passed by this Court in W.P.No.7664 of 2010 dated 21.01.2015 praying to call for the records of the 1st Respondent in connection with the Letter No 28955/UD/3/2006-6 dated 13.02.2007 and quash the same.

For Appellant :: Mr.V.Ayyathurai,
Additional Advocate General
assisted by Mr.N.Sampath

For Respondents:: Mr.AR.L.Sundaresan, Sr.Counsel
assisted by
Mrs.A.L.Gandhimathi for R1

Mr.P.Gunasekaran,
Addl.Govt.Pleader (AS) for R2& R3

JUDGMENT

(Judgment of the Court was delivered by
M.SATHYANARAYANAN, J.)

The first respondent herein / writ petitioner, filed a writ petition in W.P.No.7664 of 2010 challenging the rejection of his request for re-conveyance of the land under Section 48(b) of the Land Acquisition Act, 1894 and after contest, it came to be allowed.

2.The second respondent in the writ petition / the appellant, challenging the legality of the same, filed this writ appeal, which has been entertained and interim orders have been granted.

3.Mr.AR.L.Sundaresan, learned senior counsel appearing for the first respondent/writ petitioner, on instructions, would submit that during the pendency of the writ petition, Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, came into force and in the light of the benevolent provision available to the land owners under Section 24(2) of the said Act, arguments were advanced and the learned Judge had allowed the writ petition directing the writ petitioner to re-deposit the compensation amount with a further direction directing the official respondents to re-convey the lands.

4.Mr.V.Ayyathurai, learned Additional Advocate General, appearing for the appellant would contend that the documents filed in support of the typed set of papers before the writ Court requires authenticity and admittedly without raising any valid grounds, oral submissions were made to invoke Section 24 (2) of the said Act, which were taken into consideration and the writ petition was allowed by the learned single Judge and therefore, the reason assigned for arriving at such conclusion is per se unsustainable.

5.In response to the said submission, Mr.AR.L.Sundaresan, learned senior counsel appearing for the first respondent / writ petitioner, would submit that in the light of the benevolent nature of the above said provision, the writ petitioner is entitled to invoke the same and on instructions, prays for withdrawal of the writ petition itself, with liberty to file a fresh writ petition invoking Section 24(2) of the said Act.

6.However, Mr.V.Ayyathurai, learned Additional Advocate General appearing for the appellant / second respondent in the writ petition, would contend that in that event, the writ petitioner could be guilty of delay and laches and opposes the same.

7.A perusal of the typed set of papers filed by the first respondent herein / writ petitioner along with the vacate stay petition would indicate that the patta stands in the name of one of the legal heirs of Late S.Subbiah. Be that as it may, Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, being a benevolent provision, if it is permissible under law and if the first respondent herein / writ petitioner is so advised, he is at liberty to invoke the provision of the said Act. The learned counsel on record for the first respondent has also made an endorsement to that effect.

8.In the light of the above, the order passed in the writ petition in W.P.No.7664 of 2010 dated 21.01.2015 is set aside and the writ petition is dismissed as withdrawn and the connected miscellaneous petition is also dismissed, and as a consequence, the writ appeal is closed. Consequently the connected miscellaneous petitions are also closed. No costs. The liberty sought for by the writ petitioner is granted subject to the observation in paragraph-7 of this judgment.

-s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

KM

To

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

2. The Special Tahsildar (Land Acquisition),
M.M.Nagar Schemes,
Kattankulathur-603 203.

+1 CC to Mr.N. Sampath, advocate sr 61770
+1 Cc to Mr.P. Ebenezer paul, Advocate sr 61899.
+1 Cc to Govt. Pleader sr 62380.

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SP(06/09/2017)