

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2017

CORAM :

THE HON'BLE MR. JUSTICE T.RAJA

W.P.Nos.15028 and 15029 of 2016
and WMP.Nos.13110 to 13113 of 2016

P.Ramaswami ... Petitioner in W.P.No.15028/2016

P.Subramani ... Petitioner in W.P.No.15029/2016

vs.

1. The State of Tamil Nadu
Rep. by Commissioner & Secretary
to Government.
Housing & Urban Development Department,
Namakkal Kavignar Maaligai,
Fort St. George, Chennai - 600 009.
2. The Special Tahsildar
(Land Acquisition)
Housing Scheme-1,
Coimbatore - 641 018.
3. The Sub-Registrar
12/1, Velavan Nagar,
Maniyakaranpalayam Road,
Ganapathy,
Coimbatore - 641 006.
4. The Executive Engineer and Administration Officer
Coimbatore Housing Unit,
Tamil Nadu Housing Board,
Tatabad,
Coimbatore - 641 012. Respondents in both the WPs

COMMON PRAYER:

Writ Petitions filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus, calling for the records of the fourth respondent in LA4/7700/05, dated 21.11.2007 as far as the inclusion of Survey No.87, Ganapathy Village, Coimbatore North Taluk, Coimbatore District is concerned and to quash the same and consequently direct the third respondent to register any document presented before him with respect to properties in Survey No.87, Ganapathy Village, Coimbatore District.

For petitioner : Mrs.V.S.Usha Rani

For respondents : Mr.M.Elumalai, Govt. Advocate
for R1 to R3
Mr.B.Vivekavanan for R4

COMMON ORDER

Mr.P.Ramaswami and Mr.P.Subramanian, who are sons of late A.Palaniswamy Gounder have come to this Court with two separate writ petitions in W.P.Nos.15028 and 15029 of 2016 challenging the impugned order, dated 21.11.2007 passed by the Executive Engineer & Administration Officer, Coimbatore Housing Unit, fourth respondent herein, directing the third respondent not to register their document, to quash the same.

2. Learned counsel appearing for the petitioners would submit that the lands covered in S.No.87, having an extent of 3.44 acres in Ganapathy Village, Coimbatore District belonging to the petitioners' father late A.Palaniswamy Gounder was acquired by 4(1) Notification vide G.O.Ms.No.597, Housing and Urban Development Department, dated 14.03.1983. Prior to the issuance of 4(1) Notification, after the death of late A.Palaniswamy Gounder, an extent of 1.14 $\frac{2}{3}$ acres, out of the said 3.44 acres was allotted to P.Ramaswami, the petitioner in W.P.No.15028 of 2016 and another extent of 1.14 $\frac{2}{3}$ acres out of the said 3.44 acres was allotted to P.Subramanian, the petitioner in W.P.No.15029 of 2016. The said property was allotted to both the petitioners as per the partition deed, dated 04.09.1962 duly registered with the Sub-Registrar, Ganapathy. Subsequently, after the demise of their mother, since both the petitioners are the legal heirs, the share of their mother devolved on them and thereby both the petitioners were entitled to 1.72 acres of land each. As a result both of them became owner of the land in question. However, when the lands were acquired by the first respondent by issuing G.O.Ms.No.597, Housing and Urban Development Department, dated 14.03.1983 under Section 4 (1) of the Land Acquisition Act, the same was challenged by writ petitions in W.P.Nos.312 and 313 of 1985 etc., batch.

3. This Court by detailed order, dated 23.10.1991 allowed the batch of writ petitions in W.P.Nos.312 and 313 of 1985 etc., batch quashing the 4(1) Notification. Aggrieved by order passed by this Court in batch of writ petition, dated 23.10.1991, Writ Appeals in W.A.Nos.1317 to 1320 of 1995 was filed by the State of Tamil Nadu, Rep. by the Commissioner and Secretary to Government, Housing and Urban Development Department, Chennai, along with Special Tahsildar (Land Acquisition), Housing Scheme No.1, Coimbatore. This Court by order, dated 27.07.2001, confirming the order of the learned single Judge, dated 23.10.1991, passed in batch of writ petitions in W.P.Nos.312 and 313 of 1985 etc., batch, dismissed the writ appeal. Therefore, when the land acquisition proceedings initiated by the first respondent came to be quashed by this Court and the quashing of the land acquisition proceedings came to an end, no further

appeal has been filed. Hence, the land belongs to the petitioner covered in S.No.87 situated in Ganapathy Village, Coimbatore District are fully free from land acquisition proceedings. Therefore, the fourth respondent cannot issue any direction what so ever as found in the impugned order not to register any documents relating to the land belongs to the S.No.87 as that was already been decided by this Court in Writ petition in W.P.Nos.312 and 313 of 1985 etc., batch and followed in W.A.Nos.1317 to 1320 of 1995. On this basis, the learned counsel appearing for the petitioners prayed for quashing the impugned proceedings issued by the fourth respondent to the third respondent.

4. Mr.M.Elumalai, learned Government Advocate appearing for R1 to R3 fairly submitted that the registration of the document relating to S.No.87 and other survey numbers are going on. Placing reliance on the written instructions, he would submit that there is no impediment for the registration of the land covered in S.No.87, Ganapathy Village, Coimbatore District. Hence, this Court find no impediment to answer the prayer in the writ petitions in favour of the petitioners.

5. Mr.B.Vivekavanam, learned counsel appearing for the fourth respondent would also attempt to make some submissions. But this Court is not able to find any merits in the said submissions.

6. When the land acquisition proceedings initiated under Section 4(1) of the Act vide G.O.Ms.No.597, Housing and Urban Development Department, dated 14.03.1983 were quashed by this Court by order, dated 23.10.1991 passed in W.P.Nos.312 and 313 of 1985 etc batch, the first respondent aggrieved by the same has filed W.A.Nos.1317 to 1320 of 1995. But this Court finding no merits in the writ appeal, confirmed the order passed by the learned single Judge quashing the entire land acquisition proceedings. Therefore, the petitioners are entitled to register their lands. Moreover, the written instructions placed before this Court by Mr.M.Elumalai, learned Government Advocate also shows that the lands covered under the whole land acquisition proceedings are being registered by the third respondent.

7. In view of the above, both the writ petitions stand allowed and the impugned order, dated 21.11.2007 passed by the fourth respondent is quashed. No costs. Consequently, connected miscellaneous petitions are closed. Since the land acquisition proceedings as mentioned above are already quashed, the third respondent is directed to entertain the registration of any document in respect of the petitioners' land.

Sd/-

Asst.Registrar (CS VI)

/true copy/

To

1. The Commissioner & Secretary to Government
State of Tamil Nadu
Housing & Urban Development Department,
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2. The Special Tahsildar
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4. The Executive Engineer and Administration Officer
Coimbatore Housing Unit,
Tamil Nadu Housing Board,
Tatabad,
Coimbatore - 641 012.

+2CC TO M/s.V.S.Usharani,sr.10672,10673

+1cc to Government Advocate sr.10859

+1cc to Mr.B.VivekaVannan,sr.10883

W.P.Nos.15028 and 15029 of 2016

pvs(co)
ss(10/4/2017)

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