

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 05.12.2017
CORAM:
THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN
W.A.No.2304 OF 2013

The Chairman,
Tamil Nadu Housing Board,
Nandanam, Chennai 35

... petitioner

versus

1 K.ELUMALAI (deceased)

2 THE SECRETARY TO GOVT
HOUSING AND URBAN DEVELOPMENT DEPT FORT ST
GEORGE CH9

3 E. THIRUVENGADAM

4 J. MEENAKSHI

5 N. RAJESWARI

6 M. KANAKAVALLI

7 R. ABIRAMI

8 E. THANGAVELU

9 S. PREMKUMAR

10 S. SRIVACHALA

... respondents

(RR 3 TO 10 BROUGHT ON RECORD
VIDE ORDER OF COURT DT.03/11/2017)

Appeal filed against the order passed by this Court dated
24.09.2012 passed in W.P.No.41533 of 2002.

WP.No.41533 of 2002:Writ Petition is filed under Article 226 of
the Constitution of India praying for issuance of a Writ of
Certiorari and Mandamus calling for the records comprised in
Letter No.50984/NI-AI(1)/96-16 dated 16.09.2002 on the file of
the Secretary to Government, Housing and Urban Development
Department, Chennai 9/1st respondent and to quash the same and
consequently direct the respondents to allot the strip of land
measuring an extent of 1 ground 260 sq.ft. comprised in
S.No.559/1 situated in Reddipalayam Village, Mugappair,
Chennai-58.

For appellant : Mr.V.Anandhamurthy, A.G.P.
For Respondents : Ms.A.Srijayanth, Spl.G.P., for R-1
Mr.C.Prabhakaran, for R-3 to R-10

J U D G M E N T

(made by K.K.SASIDHARAN, J.)

The land owned by the 1st respondent in S.No.606 was acquired by the Tamil Nadu Housing Board. A portion of the land, where his residential house was constructed, was excluded from acquisition. Since there was no access to the residential house after acquisition, the 1st respondent submitted a representation to the Government for exclusion of the portion of the land to be used as an access. The representation was rejected. The writ petition filed by the 1st respondent was allowed by the learned Single Judge. The Tamil Nadu Housing Board was directed to allot 1 ground 260 sq.ft. of land in S.No.559/1 part to the 1st respondent on payment of market value so as to enable him to use it as access to the residential house. The order is under challenge at the instance of the Housing Board.

2. The respondents 3 to 10 are the legal representatives of the 1st respondent who died during the pendency of this appeal.

3. We have heard the learned counsel for the appellant. We have also heard the learned counsel for the respondents 3 to 10.

4. The land owned by the predecessor in interest of respondents 3 to 10 in S.No.606, Reddipalayam Village, Mugappair, Chennai was acquired by the Government for and on behalf of the Tamil Nadu Housing Board. The total extent was 3 acres and 37 cents. The residential property was excluded from acquisition. However, access to the land was not given. It was only under such circumstances, the land owner made a request to allot him 1 ground and 260 sq.ft. in S.No.559/1 which is a vacant land for his access to the house.

5. The documents available on record clearly indicate that unless this vacant land is allotted to the respondents 3 to 10, it would not be possible for them to enter their residential house. The land owner was not seeking this land for development. It is only to be used as an access to the residential house.

6. The manner in which the land was acquired by the Government was the cause for this litigation. The Land Acquisition Officer could have acquired the entire land. In case the housing property is excluded, necessarily, the land owner should be given access. It would not be possible for the land owner to enter the residential house without proper access. We are therefore of the view that the subject land should be given to the respondents 3 to 10 for the specific purpose of using it as an access on payment of market value. We do not find any error or illegality in the order passed by the learned single Judge.

7. In the upshot, we dismiss the intra court appeal. No costs. Consequently, M.P.No.1 of 2013 is also dismissed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Chairman,
Tamil Nadu Housing Board,
Nandanam, Chennai 35

2.The Secretary to Government,
Housing and Urban Development Department
Fort St. George, Chennai 9

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W.A.No.2304 OF 2013

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