

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.03.2017

Coram

The Hon'ble Mr.Justice S.M.Subramaniam

Writ Petition No.19332 of 2003

1. M.VAIRAVAN
2. A.GANESAN
3. S.DEVAKI
4. A.NAGALAKHSHMI
5. N.SURIAPRAKASH
6. JEBARAJ RAJKUMAR
7. VICTORIYA MAHARANI
8. R.BABI
9. S.INDIRA
10. M.NAGESWARI
11. PUYALRANI
12. CHAKKARAI
13. RENGARAJAN
14. RAJAGOPALAN

...Petitioners

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary,
Housing & Urban Development Department,
Fort. St. George, Chennai - 600 009.
2. The Revenue Divisional Officer Cum
Land Acquisition Officer,
Ramanathapuram,
Ramanathapuram District.
3. The Tamil Nadu Housing Board rep, by its
Executive Engineer and Administrative
Officer, Ramanathapuram Housing Unit,
Ramanathapuram - 623 501.

...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Declaration to declare the entire acquisition proceedings null and void lapsed in view of Notice No. Na. Ka. No.A1/12674/89 dated 07.03.2003, issued by the 2nd respondent proposing to pass the award in respect of Ramanathapuram Taluk -Sakkarakottai Village S.Nos.130/1 and etc., an extent of 19.44.5 hectares lands acquired for Tamil

Nadu Housing Board after the expiry of two years in violation of the S.11-A, of the act and thus render justice.

For Petitioner : Mr.Md.Ibrahim Ali

For Respondents 1 &2: Mr.A.Zakkir Hussain
Government Advocate

For Respondent-3 : Mr.V.Anandhamoorthy

O R D E R

The prayer in the Writ Petition, is for issuance of a Writ of Declaration, to declare the entire acquisition proceedings as null and void, and lapsed in view of the notice, dated 07.03.2003, issued by the 2nd respondent, proposing to pass an award, in respect of the lands in Ramanathapuram Taluk-Sakkarakottai Village, measuring an extent of 19.44.5 hectares of lands.

2. At the outset, the learned counsel appearing for the petitioner submits that the issue involved in this Writ Petition is no longer res integra, as it is covered by the decision rendered by the Hon'ble Division Bench of this Court, in W.A. (MD) No.408 of 2005, dated 21.11.2006, wherein, the Division Bench, after taking note of the fact that the batch of Writ Petitions challenging Section 6 declaration, dated 11.02.1994, were dismissed on 01.03.2001, and, also taking into consideration of the provisions contained in Section 11-A of the Land Acquisition Act that in acquisition proceedings, award has to be passed within a period of two years from the date of publication of the Section 6 declaration, held that the entire acquisition proceedings have become lapsed, since the award was passed belatedly, after the expiry of 2 years. The learned counsel also produced a copy of the said judgment for reference, and submitted that, following the Division Bench judgment, the present Writ Petition may also be allowed.

3. Heard the learned Government Advocate for respondents 1 and 2 and Mr.V.Anandhamoorthy, learned counsel for the third respondent, who did not dispute the legal position, and submitted that the issue involved in the present writ petition is covered by the decision/case relied upon by the learned counsel for the petitioner.

4. As rightly pointed out by the learned counsel for the petitioner, the issue raised by the petitioners is covered by the judgment referred to supra, and, it would be beneficial to refer to the operative portion of the said judgment, which is extracted as hereunder :-

"The appellant has furnished the dates and events relating to the acquisition proceedings. Section 4 (1) notification was published on 23.12.1992. Section 6 declaration was made on 11.02.1994 and challenging the said declaration, the appellant had filed Writ Petition and obtained interim stay of dispossession on 29.04.1994. Thereafter, the writ petition was dismissed along with other batch of writ petitions on 01.03.2001. If the period atleast from 01.03.2001, the date on which the final order was passed by this Court in the writ petitioner, is taken into consideration, the award should have been passed on or before 28.02.2003. On the other hand, the award has been passed only on 28.03.2003. The provisions of Section 11 (A) of the Act is very clear that inasmuch as it mandates the Collector to make an award under Section 11 within two years from the date of publication of the declaration and if no award is made within that period, the entire proceedings for acquisition of the lands shall lapse.

Accordingly, the writ appeal is allowed and it is declared that the entire acquisition proceedings in respect of the land of the appellant notified under section 4 (1) Notification, dated 23.12.1992, and declared under Section 6 on 11.02.1994 shall lapse automatically. No costs."

5. In the present case also, acquisition proceedings have been initiated in respect of the land in Sakkarakkotai Village, Ramanathapuram Taluk, for which, Section 6 declaration came to be issued by the first respondent/Housing and Urban Development Department, on 10.02.1994, and the same was also put to challenge by the petitioners by filing batch of Writ Petitions, and the Writ Petitions came to be dismissed on 20.04.2001, and after a lapse of two years, the present impugned notice, calling for enquiry to pass the award has been issued by the respondents only in the year 2003. Thus, in the light of the above referred judgment, this Court has no hesitation to hold that the entire acquisition proceedings initiated against the petitioners in respect of the land comprised in S.Nos.130/1, etc., measuring an extent of 19.44.5 hectares, in Sakkarakottai Village, Ramanathapuram Taluk, notified under section 4 (1) Notification, and declared under Section 6 on 10.02.1994, have become lapsed.

6. In the result, the Writ Petition is ordered, as prayed for. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

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To

1. The Secretary to Govt.,
Housing & Urban Development Department,
Fort. St. George, Chennai - 600 009.
2. The Revenue Divisional Officer Cum
Land Acquisition Officer,
Ramanathapuram,
Ramanathapuram District
3. The Tamil Nadu Housing Board rep, by its
Executive Engineer and Administrative
Officer, Ramanathapuram Housing Unit,
Ramanathapuram - 623 501.

+1cc to M/s.M.Md.Ibrahimali,Advocate sr.19352

+1cc to Government Pleader sr.19552

सत्यमेव जयते

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