

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2018

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.9565 of 2017

G.Srinivasu

.. Petitioner

Vs.

1. The State of Tamil Nadu rep. By its Secretary,
Adi Dravida & Tribal Welfare Department,
Fort St. George, Chennai - 9.
2. The District Collector,
Krishnagiri District at
Krishnagiri.
3. The Special Tahsildar,
Adi Dravidar Welfare Scheme,
Krishnagiri District.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to directing the respondents to reconvey the lands situated in S.No.108/2, Salivaram Village, Denkanikottai Taluk, Krishnagiri District, to the petitioner, original land owners, by applying the statutory prescription under Section 48B of the Land Acquisition Act, 1894 on the basis of the representation dated 21.03.2017.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.C.Thirumaran
Special Government Pleader
for R1 to R3

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O R D E R

This writ petition has been filed seeking a direction to the respondents to reconvey the land comprised in S.No.108/2 situated at Salivaram Village, Denkanikottai Taluk, Krishnagiri District measuring an extent 4.46 acres, which was acquired under Section 48-B of the Land Acquisition Act, 1984 (in short, "the Act"), to the petitioner.

2. According to the petitioner, the subject matter of the property was the joint family property of predecessors of the petitioner and the same was sought to be acquired by the State in the year 1954 for the purpose of provision of house sites to the houseless Adi Dravidas of the said village. Accordingly, a notification under Section 4(1) of the Act was issued and the same was followed by a declaration under Section 6 of the Act, dated 05.10.1955. Thereafter, no compensation was paid to the family of the predecessors of the petitioner. However, the lands were sub divided and allotted to the beneficiaries. Further, according to the petitioner, he came to know that the beneficiaries to whom the lands of the predecessor of the petitioner was allotted did not intend to occupy the land allotted to them as the dead bodies of some of the predecessor of the petitioner were buried in the above land. Apart from that the beneficiaries were allotted house sites in the adjacent land in S.No.72/1, and occupies the land allotted to them, and most of the adi dravida community people in the said village were provided house sites at free of cost. Insofar as the land belonged to the petitioner's predecessor is concerned, the allottees have not taken possession of the same and they declined to avail the benefits.

3. The petitioner further submitted that earlier when some of his family members approached this Court by way of W.P.No.923 of 1997, this Court by order dated 29.10.2002, dismissed of the same on the ground account of latches. Now the grievance of the petitioner is that the allottees who were provided house sites in the land in question declined to occupy the land and they showed interest only to occupy the adjacent land. The land acquired from the predecessor of the petitioner has not been put in use. Hence, this writ petition for reconveyance of the land under Section 48-B of the Land Acquisition Act.

4. The third respondent has filed a detailed counter affidavit, inter alia contending that the land in question was acquired in the year 1955 and subsequently, an award was also passed on 27.11.1955. Thereafter, the possession of the land was taken by the State and the land was sub divided, plotted out and free house site pattas were issued to 70 houseless Adi Dravida of Salivaram Village. According to the third respondent necessary changes were also carried out in the revenue records. As the original owner of the land did not come forward to receive the compensation, the compensation amount has been deposited into the Court. Several writ petitions were filed challenging the land acquisition proceedings and the first one in W.P.No.11747 of 1983, and the same was dismissed on 12.11.1991 on the ground of latches and the another one in

W.P.No.8881 of 1993 was also dismissed on 02.11.1995. The writ appeal in W.A.No.1414 of 1995 filed by the land owner of the land in question also got dismissed on 22.12.1995. Yet another writ petition in W.P.No.923 of 1993 was also dismissed on 29.10.2002. Thereafter, the present writ petition has been filed.

5. The third respondent further contended that the petitioner is a powerful person in the locality and he has been obstructing the beneficiaries from using the house sites allotted to them. Several houseless adi dravidas in the village have been provided house sites and numbers representations are being received from the houseless adi dravidas for the provision of house sites. None of the beneficiaries, who have been allotted house site, declined to receive free house site patta. It is only the petitioner who prevented the beneficiaries from entering into the plot and putting up construction.

6. I have considered the rival submissions.

7. The petitioner claims to be a descendant of the erstwhile owner of the land in question, which was acquired as early as in the year 1954. After following due procedure under the Act, appropriate Award also came to be passed as early as in the year 1995. After lapse of about 63 years, the petitioner now has come up with the present writ petition for reconveyance of land under Section 48-B of the Act, which has been repealed by the Right to Fair Compensation and Transparency in Land Acquisition Act, 2013 (in short, the "New Act"). Even under Section 24(2) of the New Act, the petitioner is not entitled to get reconveyance of the land only. In the instant case, it could be seen from the available records that, the possession of the land in question was taken somewhere in 1955 and the same was sub divided, plotted out and allotted to several beneficiaries. There were several round of litigation challenging the acquisition, which were all ended in favour of the State. The third respondent in his counter contended that it is the petitioner, who prevented the beneficiaries from occupying the land allotted to them. The original owner himself lost his case long back. While so, the petitioner cannot have any grievance at this length of time. The provisions in the New Act also would not come to the rescue of the petitioner. Considering the circumstances, this Court is of the considered view that the instant writ petition is nothing but an abuse of process of law.

7. Hence, the relief sought for by the writ petitioner cannot be granted and the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

rts/ssr

To

1. The Secretary
State of Tamil Nadu rep
Adi Dravida & Tribal Welfare Department,
Fort St. George, Chennai - 9.
2. The District Collector,
Krishnagiri District at
Krishnagiri.
3. The Special Tahsildar,
Adi Dravidar Welfare Scheme,
Krishnagiri District.

+1cc to Mr.L.Chandrakumar, Advocate, S.R.No.62572
+1cc to the Government Pleader, S.R.No.62572

W.P.No.9565 of 2017

NMI (CO)
CS/16/10/2018

सत्यमेव जयते

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