

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 06.12.2019
CORAM :
THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE
Rev.Appln.No.44 of 2018
in
W.A.No.1911 of 2000

Tamil Nadu Housing Board,
Rep. by Executive Engineer &
Administrative Officer,
Coimbatore Housing Unit,
Tatabad, Coimbatore - 12.

... Petitioner/Third Party/Third Party

-Vs-

1.K.Govindaraju, S/o.Kupusamy Naidu

2.Rajamani
S/o.Narayanasamy Naidu
Door No.26, Radhakrishna Mills,
C-Colony, Peelamedu.

3.Damodharan, S/o.Ramakrishna Naidu,
No.7, Gopalapuram,
Coimbatore.

4.K.Mohanasundaram, S/o.Kupusamy Naidu

5.Ragupathy, S/o.Chinnasamy Naidu,
Idikarai, Kurubampalayam Village,
Coimbatore.

6.Iyyasamy, S/o.Kuppusam

7.Kuppusamy, S/o.Rangappa Naidu

1 to 4 residing at 3/66,
Athipalayam Road,
Ganapathy Village,
Coimbatore.

8.The State of Tamil Nadu
Rep. by the Secretary to Government
Housing & Urban Development Department
Fort St. George,
Chennai 600 009.

9.The Special Tahsildar,
(Land Acquisition)
Housing Scheme - I,
Coimbatore,
Coimbatore District.

... Respondents

PRAYER : Review Application filed to review the order passed in
W.A.No.1911 of 2000, dated 25.01.2001 passed by this Court.

WA.No.1911/2000: filed under clause 15 of Letter Patent to set
aside the order dated 13.03.1998 in WP.NO.9510/87.

WP.No.9510/87: filed Under Article 226 of the Constitution of
India to issue a Writ of Certiorari or other appropriate Writ
direction or order calling for the records relating to
GO.MS.419, Housing and urban development Department dated
19/03/1986 of Government of Tamil Nadu Government Gazette
Extraordinary dated 20.03.1986 and quash the same in so far as
the petitioners herein are concerned.

For Appellant :Dr.R.Gouri

For Respondents:Mr.Su.Srinivasan (R1 to R6)

Mr.V.Anandhamoorthy (for R8 & R9)
Additional Government Pleader

J U D G M E N T

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

Long long ago, so long ago, about four decades ago, it was
during 1983, the original proceedings had been initiated by the
Government by issuance of 4(1) Notification dated 07.03.1983,
for acquiring lands for housing purpose to be developed by the
Review petitioner herein. The said proceedings were challenged
by the land losers and the petitions were allowed by this Court,
against which appeals were filed and the same were dismissed.
After too many decades, the review petitioner/the beneficiary
has come before this Court challenging the order passed by this
Court.

2.The facts of the case are as follows:

The appellant issued 4(1) notification on 07.03.1983 for acquiring land to an extent of 4.17 acres belonging to the private respondents herein in Krishnarayapuram, Block No.5 for the project called Ganapathy Neighbourhood scheme. Enquiry notice u/s.5(A) of Land Acquisition Act was issued on 29.04.1983. Objections were filed by the owners on 30.05.1983. The requisitioning body viz., the review petitioner herein had filed reply on 26.08.1983. On 19.03.1986 Section 6 declaration was made. On 20.03.1986 gazette publication under Section 6 was also made. Award was passed on 21.08.1987.

3.The land losers filed Writ Petition in the year 1987 and the said Writ Petition was allowed by the learned single Judge on the ground that Rule 3(b) framed under Section 53 of the Land Acquisition Act had not been complied with as records were not produced before the learned single Judge to prove that Rule 3 (b) had been complied with. Aggrieved over the same, the 8th and 9th respondents/State Government filed appeal before this Court and the First Bench of this Court, after going through the records, dismissed the Appeal stating that Rule 3(b) of the Rules had not been complied with. The said order was passed by the First Bench of this Court as early as on 25.01.2001.

4.After two long decades, the present review petition has been filed stating that Rule 3(b) has been complied with and Writ Petition itself is not maintainable and not sustainable as the Writ Petition has been filed after passing of the award and without impleading Housing Board as a party.

5.Dr.R.Gouri, learned counsel appearing on behalf of the Housing Board would vehemently argue the case.

6.In normal circumstances, this Court would readily agree with the contentions raised by the learned counsel appearing on behalf of the Housing Board. The long history of the case would reveal that the original proceedings started about 36 years ago by issuance of 4(1) notification on 07.03.1983. Section 6 declaration dated 20.03.1986 was quashed by this Court as early as on 13.03.1998. The Writ Appeal was also dismissed on 25.01.2001. For the past two decades viz., 20 years, the beneficiary has not raised its little finger against the order passed by the learned single Judge as well as by the Bench of this Court. If the Government had acted swiftly it could have filed an SLP against the order of this Court. It is not known whether SLP has been filed or not.

7. Be that as it may, the role of the requisitioning body is limited, in case of land acquisition, only with regard to the payment of compensation and that is well settled law. It is for the State to sustain land acquisition proceedings and thereafter only the benefit would accrue to the beneficiary. When Section 6 declaration itself has been quashed by this Court, there is no accrual of interest in favour of the requisitioning body. Therefore, the requisitioning body cannot be termed as an aggrieved party at all. For the above reasons the contentions raised by the learned counsel appearing on behalf of the Housing Board, who is not a party to the Writ Petition in which Section 6 declaration was challenged successfully is not sustainable and the same is rejected.

8. It is too late for the Housing Board to plead that Rule 3 (b) has been complied with, especially, when the Government has not taken that plea and produced any documents before the learned single Judge as well as before the Bench of this Court and when it has attained finality, it cannot be re-agitated by the requisitioning body.

9. Similarly, the filing of Writ Petition after the award was passed is not sustainable in view of passage of time and accrual of rights to the land losers. Moreover, the land owners during the interregnum period of 20 years might have sold the properties and third party rights would have got accrued. The third party would have developed the property. It is fortified by the photographs produced by the learned counsel appearing for respondents 1 to 6. A perusal of the said photographs reveals that many constructions have been raised and residential users have come up. At this stage, if the order is disturbed, it will definitely affect thousands of people. Much water has flown under the bridge. Therefore, the contention raised by the review petitioner is not sustainable. Even if a case is made out, the delay is fatal to the proceedings. As already pointed out, proceedings were initiated about 36 years ago and Section 6 declaration was quashed about 20 years ago and therefore, on the ground of delay also the review petition is not sustainable.

10. Dr. R. Gouri, learned counsel appearing on behalf of the Housing Board submits that it is only for providing housing facilities to the people and 54 plots were allotted. No doubt, it is the duty of the Government to see that every citizen has a dwelling unit. Even though it is a laudable object, because of the failure of the officials of the Housing Board and because of the failure of the Government officials, proper documents were not produced before this Court and adverse order has been passed against the Government. When the original authorities

themselves lost the case, the beneficiary cannot seek to review.
Therefore, Review Petition is liable to be dismissed.

11. Accordingly, the Review Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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TO:

1.The Executive Engineer,
Tamil Nadu Housing Board,
Administrative Officer,
Coimbatore Housing Unit,
Tatabad, Coimbatore - 12.

2.The the Secretary to Government,
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Housing & Urban Development Department
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nr 21/02/2020