

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.34412 of 2017  
and  
WMP Nos.38247 and 38248 of 2017

K.Dharaniperumal

.. Petitioner

Vs.

1.The Secretary to Government,  
Housing and Urban Development,  
Secretariat, Chennai-9.

2.The Managing Director,  
Tamilnadu Housing Board,  
Anna Salai, Nandhanam,  
Chennai-35.

3.The Land Acquisition Officer,  
Neighborhood Scheme,  
C/o.Salem Housing Unit,  
Ayyan Thirumaaligai Road,  
Salem-8.

4.The Executive Engineer and  
Administrative Officer,  
Salem Housing Board,  
Salem Housing Board Unit,  
Ayyan Thirumaaligai Road,  
Salem-8.

5.The Sales Manager (C) Service,  
Tamilnadu Housing Board,  
Salem Housing Board Unit,  
Ayyan Thirumaaligai Road,  
Salem-8.

6.R.Natarajan

7.M.Pushpa

8.M.Manimekalai

9.R.Balu

10.R.Subalakshmi

11.K.P.Matheswaran

12.P.Muthukrishnan

13.S.Sumathi

14.S.Pushpavathi

15.M.Varadhan

16.N.Saroja

17.S.Karunakaran

18.R.Ravi

19.R.Sudha

20.T.Vellaivinayagam

21.T.Ramalingam

22.T.Venkatesan

23.M.Shak kilar

24.S.Mariyappan

25.P.Senkottuvelavan

26.K.P.Matheswaran

27.E.Sahul Hameed

28.D.Rathinam

29.B.Sankar

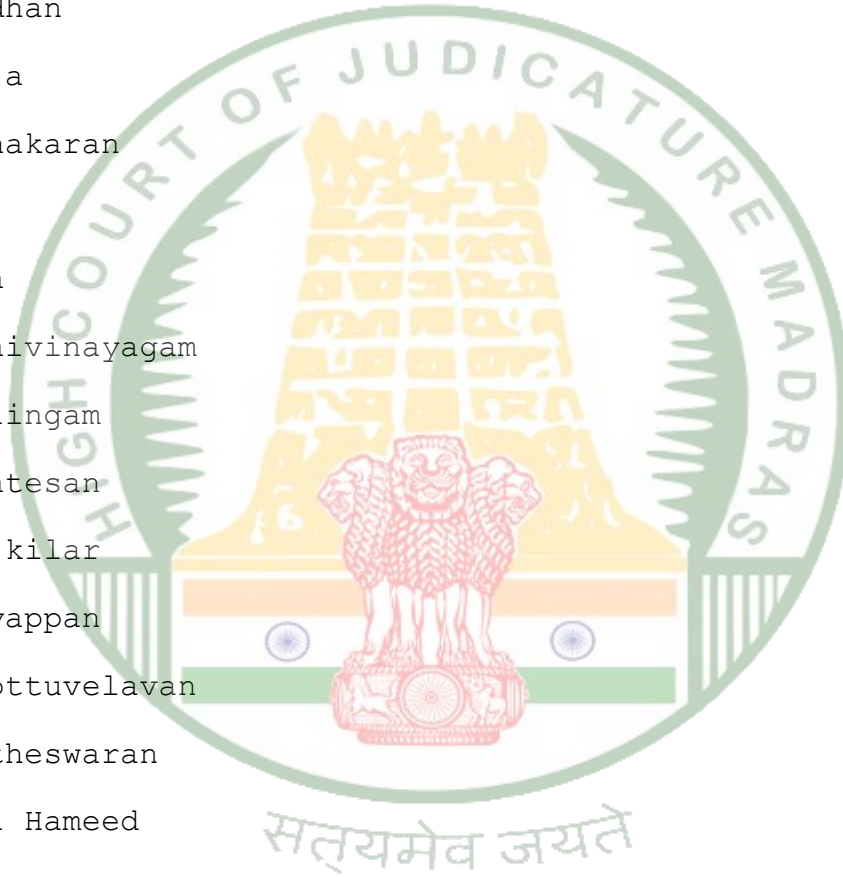
30.N.Alaxchander Joseph

31.D.Anuradha

32.R.Vijai

33.S.S.Arul

34.R.Sathiyapriya



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35.N.Arulmozhi

36.M.Balamurugan

37.V.Vellaiyan

38.The Sub Registrar,  
Registration Department,  
Attur 636 102, Salem District.

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified mandamus to call for the entire records relating to the impugned allotment order dated 20.05.2016 passed by the fifth respondent made in proceedings No:R6/12632/2012, No:R6/12708/2012, No:R6/12133/2012, No:R6/13448/2012, No:R6/11451/2012, No:R6/12532/2012, No:R6/187/2012, No:R6/13720/2012, No:R6/12674/2012, No:R6/12520/2012, No:R6/12521/2012, No:R6/12007/2012, No:R6/12833/2012, No:R6/11449/2012, No:R6/11894/2012, No:R6/10703/2012, No:R6/11053/2012, No:R4/13659/2012, No:R4/15748/2012, No:R4/15767/2012, No:R4/17717/2012, No:R4/16132/2012, No:R4/6100/2012, No:R4/15244/2012, No:R4/2170/2012, No:R4/14605/2012, No:R4/16395/2012, No:R4/13744/2012, No:R4/558/2012, No:R4/1795/2012, No:R4/16503/2012, No:R4/16847/2012 and quash the same and consequently forbearing the fourth respondent from evicting the petitioner from the property bearing S.No.203/2, 203/3, 203/4, 206/6 to the extent of 3.74 acres situated in Narasingapuram Village, Attur Taluk, Salem District and also direct the 38th respondent not to register any document in the above survey numbers.

For Petitioner : Mr.A.Rajkumar

For Respondents : Mr.D.Suryanarayanan for R1, 3 and 38  
Additional Government Pleader  
Mr.V.Anandamoorthy for R2, 4 and 5

#### ORDER

The petitioner is questioning the allotment order dated 20.05.2016 issued by the fifth respondent in favour of the private respondents herein. Consequently, the petitioner seeks to forbear the fourth respondent from evicting the petitioner from the property bearing S.No.203/2, 203/3, 203/4, 206/6 to the extent of 3.74 acres situated in Narasingapuram Village, Attur Taluk, Salem District and also direct the 38th respondent not to register any document in the above survey numbers.

2.Heard the learned counsel for the petitioner and the learned counsel appearing for the Tamilnadu Housing Board.

3.Since this Court is not inclined to entertain the writ petition for the reason set out hereunder, there is no necessity to issue notice to the private respondents.

4.From the facts narrated in the accompanying affidavit as well as the submissions made by the learned counsel appearing for the Tamilnadu Housing Board, it is seen that the petitioner is making his fourth attempt by filing this writ petition, unfortunately having lost in all the earlier three attempts, out of which, one has also reached the stage of passing an order in W.A.No.379 of 2016 recently on 01.11.2017, dismissing the writ appeal filed by the very same petitioner in respect of his prayer for mandamus for reconveying the subject matter land by claiming that he is entitled to get back the land as per Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013 (30 of 2013).

5.It is stated by the learned counsel for the Housing Board that the first petition filed by the petitioner is against the notice inviting the application for allotment, the second writ petition is against the conducting of auction for allotment and the third writ petition is the one seeking for reconveyance of the land as stated supra. It is stated that the first two writ petitions were dismissed and the third writ petition viz., W.P.No.3307 of 2016 came to be dismissed by learned single Judge and confirmed in the writ appeal as stated supra. The relevant paragraphs 7 to 10 of the order passed in the writ appeal as follows:

"7.The factual matrix indicates that the land owned by the appellant was acquired along with the neighbouring lands at Narasingapuram Village, Attur Taluk, Salem District, for a Housing Scheme floated by the Tamil Nadu Housing Board. The Tamil Nadu Housing Board after finalising the acquisition of the land prepared a layout and applications were called for allotment. The appellant immediately filed a writ petition in W.P.No.28969 of 2012 challenging the Notification calling for applications for allotment. The appellant himself made an application for allotment on 03.07.2012. The interim stay granted by the Court in W.P.No.7588 of 2016 restraining the respondents from proceeding with the allotment was subsequently vacated. The writ petition in W.P.No.7588 of 2016 was disposed of taking into account the plea made by the appellant that he intend to challenge the proceedings by invoking Section 24

(2) of Act 30 of 2013.

8.The appellant never challenged the land acquisition proceedings on the ground that possession has not been taken by the Tamil Nadu Housing Board. It was not his case earlier that neither the Land Acquisition Officer nor the Requisitioning body took possession of the land and that he is still in possession of the acquired land. The case of the appellant throughout was that the Tamil Nadu Housing Board has no right to allot the house-sites without obtaining planning permission from the Statutory Authority. In fact the appellant himself made an application for allotment. This fact clearly shows that the Requisitioning body took possession of the land and it was ordered for public sale.

9.It was only after the introduction of Act 30 of 2013, the appellant has come up with a new case that possession has not been taken and as such, he is entitled to the benefits of Section 24 (2) of the said Act. There is absolutely no merits in the said contention in view of the earlier proceedings and the dismissal of the writ petition in W.P.No.28969 of 2012. The learned Single Judge considered the background facts and rightly dismissed the writ petition. We do not find any ground made out by the appellant to take a different view in the matter."

6.When such being the factual position, I do not think that the petitioner is justified in making this repeated attempt in filing the writ petition one after another arising out of the same cause of action, especially, when he had lost in all his attempts. Now, the present writ petition is filed only to cancel the allotment order issued in respect of the respective allottees viz., the private respondents herein.

7. In view of the above stated facts and circumstances, the petitioner is not entitled to succeed and therefore, there is no purpose in entertaining the writ petition any further. Accordingly, the writ petition fails and the same is dismissed. No costs. The connected miscellaneous petitions are closed.

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sd/  
ASSISTANT REGISTRAR

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SUB-ASSISTANT REGISTRAR

To

1.The Secretary to Government,  
Housing and Urban Development,  
Secretariat, Chennai-9.

2.The Managing Director,  
Tamilnadu Housing Board,  
Anna Salai, Nandhanam,  
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3.The Land Acquisition Officer,  
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4.The Sales Manager (C) Service,  
Tamilnadu Housing Board,  
Salem Housing Board Unit,  
Ayyan Thirumaaligai Road,  
Salem-8.

5.The Sub Registrar,  
Registration Department,  
Attur 636 102, Salem District.

+1CC to Mr.A.Rajkumar Advocate SR.NO.2249

+1CC to Mr.V.Anandamoorthy Advocate SR.NO.2292

+1CC to Government Pleader SR.NO.2384

W.P.No.34412 of 2017

CNR[CO]  
MK:03/02/2018

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