

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.02.2018

CORAM

THE HON'BLE MR.JUSTICE N. SESHASAYEE

W.P.No.14189 of 2012
and M.P.No.1 of 2012

Golden Info Tecch Park,
Represented by its Managing Partner,
Mr.T.V.Vasantha Kumar Reddy,
Having Office at 15-6, 1st Street,
Subramania Nagar, Kodambakkam,
Chennai 600 024. Petitioner

Vs.

- 1.The Secretary,
Housing and Urban Development
Government of Tamil Nadu,
Fort St. George, Chennai 600 009.
- 2.The Chairman,
Tamil Nadu Housing Board,
Nandanam, Chennai 600 035.
- 3.The District Collector,
Kancheepuram District,
Tamil Nadu.
- 4.The Special Tahsildar, (L.A.) Unit I,
Tamil Nadu Housing Board,
Nandanam, Chennai 600 035.
- 5.The Special Deputy Collector, (L.A.)
Tamil Nadu Housing Board,
Tirumangalam, Chennai 600 101.
- 6.The Commissioner of Police,
Egmore, Chennai 600 008.
- 7.The Inspector of Police,
Solinganallur Police Station,
Solinganallur,
Kancheepuram District. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the entire records pertaining to passing of the orders Na.Ka.15842/2007 dated 23.11.2010 by the third respondent herein namely the Collector, Kancheepuram District and quash the same and direct the respondents or their officials or subordinate or any person acting on their behalf to reconvey the lands at Survey Nos.415/10, 415/11, 415/12 and 415/13 Sholinganallur Village, Kancheepuram District to and in favour of petitioner after withdrawing the G.O.Ms.No.620, Housing Urban Development dated 29.06.1990 within a stipulated period.

For Petitioner : Mr.Arun Dhanabalan for
: Mr.A.Jenasenan
For R1, R3, R4 & R5: Mr.Akhil Akbar Ali for
Government Advocate
For R2 : Mr.Vivekavanam for R2
For R6, R7 : No appearance

O R D E R

The petitioner's case is that, it has purchased a property ad-measuring 1.10 acres in Survey Nos.415, 415/12 and 415/13 at Sholinganallur Village under a sale deed dated 06.07.2006. Even at the time of purchase, the vendor of the petitioner has stated that there was a proposal to acquire the land by the Tamil Nadu Housing Board, however, they have not received any notice in this regard. The petitioner was also informed that the proposal to acquire several lands in Sholinghur Village were given up by the Government by issuing G.O.Ms.No.433 (Housing and Urban Development Department) dated 14.05.1990 and G.O.Ms.No.948 (Housing and Urban Development Department) dated 07.06.1991.

2. The petitioner continue to be in possession of the property and therefore, they approached the planning authority for developing the property. At that time, by citing the proposal to acquire the lands in the year 2000, the request of the petitioner for planning permission was not sanctioned. The petitioner therefore approached the Government with a representation dated 15.03.2007 to exclude the petitioner's property from acquisition and to re-convey the property but it was rejected by the 3rd respondent/District Collector, Kancheepuram on 23.11.2010.

3. Mr. Akil Akbar Ali, learned Government Advocate enters appearance for respondents 1, 3, 4 and 5 and Mr.B.Vivekavanam, the learned counsel for the 2nd respondent.

4. The learned counsel also brought to the notice of the Court that the petitioner has also filed WP No. 30374 of 2015 seeking

for a Writ of Declaration to declare that the acquisition proceedings initiated by the respondents in respect of the lands mentioned above have lapsed as per the provisions of Section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013) and it is pending.

5. The learned counsel for the respondents 1, 3, 4 and 5 as well as the second respondent, in unison, would submit that the petitioner in his representation dated 15.03.2007 has not made it clear under which provision of the Act, he seeks re-conveyance of the land as an alternative prayer.

6. The tone and tenor of the impugned order passed by the third respondent dated 23.11.2010 is one of rejection to the petitioner's prayer for re-conveyance of the lands. It is true, a perusal of the copy of the representation on which the impugned order was passed reveals that it does not explicitly state the provision of law under which the petitioner has approached the Government. But the lay citizens are not expected to know law, and it is for any Authority empowered to deal with the rights of the citizens or for the Court that interpret and administer law to apply it. Necessarily it has to be held that petitioner's prayer for re-conveyance can be plotted in Section 48-B of Land Acquisition Act, 1984, which empowers the Government to consider the request for re-conveyance of the land.

7. Turning to the impugned order, the petitioner has made a request only with the Government consistent with Sec.48-B, but the order of rejection was passed by the District Collector. Hence, on the face of it, the order is incompetent and consequently this Court necessarily has to interfere with the same.

8. Accordingly, this Court allows this Petition and quashes the impugned order passed by the third respondent dated 23.11.2010. The petitioner may approach such Authority as provided in law now in force for re-conveyance of the lands, if it is so desired. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

dna

To:

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7.The Inspector of Police,
Solinganallur Police Station,
Solinganallur, Kancheepuram District.

+2cc to Mr.A.Jenasenan, Advocate, S.R.No.13502

+1cc to Mr.Viveka Vanan, Advocate, S.R.No.13591

+1cc to the Government Pleader, S.R.No.15400

सत्यमेव जयते

W.P.No.14189 of 2012

RR(CO)

RRK(26/03/2018)

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