

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders on : 27.07.2018

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.15691 of 2008

and

MP.No.2 of 2008

S.Subramaniam

... Petitioner

Versus

1.State of Tamilnadu,
Rep.by Secretary to Government,
Housing and Urban Development Department,
Secretariat, Fort St.George,
Chennai - 600 009.

2.The Managing Director,
Tamilnadu Housing Board,
Nandanam, Chennai - 600 035.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India praying to issue Writ of Certiorarified Mandamus, to call for the records relating to the letter No.38123/L.A.I(ii)/02-16, dated 03.10.2007 on the file of the first respondent and quash the same and forbear the respondents 1 and 2 from taking possession of the land in Survey No.297/3A5 situated at Keelkattalai Village, Tambaram Taluk, Kancheepuram District.

For Petitioner : Mr.J.R.K.Bhavanantham

For R1 : Mrs.Thanga Vadhana Balakrishnan,
Additional Government Pleader.

For R2 : Mr.Vivekavanan

O R D E R

The present writ petition has been filed under Article 226 for the constitution of India, seeking writ of Certiorarified Mandamus, to call the impugned order in reference letter No.38123/L.A.I(ii)/02-16, dated 03.10.2007 on the file of the first respondent, quash the same and further forbear the

respondents 1 and 2 from taking possession of the land in Survey No.297/3A5 situated at Keelkattalai Village, Tambaram Taluk, Kancheepuram District.

2. The petitioner herein claims to be an employee in Madras Port Trust Hosptial as attender and he was superannuated on 31.12.2002. He had purchased the property-site bearing Plot No.2, which was an approved layout in D.Dis.No.2014/1988 by a registered sale deed from one Govindasamy.

3. The petitioner would contend that he raised a loan for meeting the 2/3rd cost of the Plot and put up a construction after getting approval vide Na.Ka.No.98/1990 from the Municipality of Pallavaram. The first respondent issued notification for acquisition of the land for the purpose of Pallavaram Neighbourhood Scheme vide 4(1) notification dated 17.08.1990, which was published in Tamilnadu Government Gazette on 05.09.1990 and consequently issued Section 6 declaration in G.O.Ms.No.1306, Housing and Urban Development Department, dated 28.09.1991 and published in the Tamil Nadu Government Gazette, dated 28.09.1991. The petitioner filed a writ petition in W.P.No.4867 of 1994 to quash the 4(1) notification dated 17.08.1990 and the declaration under Section 6 of the Act. The said writ petition was disposed on 13.12.2000, directing the petitioner to approach the first respondent seeking to extend the benefit of G.O.Ms.No.620 Housing and Urban Development Department, dated 29.06.1990 within 30 days from the date of receipt of a copy of that order and the second respondent shall pass appropriate orders on the application of the petitioner within 90 days from the date of receipt of such representation and till then, status quo has to be maintained by both the parties. Therefore, the first respondent passed an impugned order dated 03.10.2007 rejecting the request of the petitioner for reconveyance of the land in Survey No.297/3A5 at Keelkattalai Village, Tambaram Taluk, Kancheepuram District stating that no written representation received by the Government or the Housing Board from the petitioner herein. As against the rejection order, this writ petition has been filed by the petitioner herein.

4. The second respondent had filed a counter refusing the claim made by the petitioner and the second respondent would submit that this Hon'ble Court in WP.No.4867 of 1994 had passed an order dated 13.12.2000 permitting the writ petitioner to approach the Government seeking the benefit of G.O.Ms.No.620 of Housing and Urban Development Department, dated 29.06.1990. The petitioner has not submitted such representation to the Government as directed by this Court. In such circumstances, when the petitioner has not sent any representation to the Government, the respondent has no other option except to reject

the request of the petitioner for the reconveyance, by the order dated 03.10.2007.

5. Heard both counsels and perused the documents available on records.

6. It would be seen from the records that the Chairman and the Managing Director of Tamilnadu Housing Board sent a requisition for acquiring certain lands in Madipakkam II, (Keelkattalai) Village, for implementation of Pallavaram Neighbourhood Scheme, and issued 4(1) notification and 6 declaration and the respondents also adopted other procedures while acquiring the lands which are not in dispute. The petitioner challenged the acquisition proceedings by raising several grounds. The learned counsel for the petitioner sought liberty to the petitioner before this Court to approach the Government to exempt his land as per G.O.Ms.No.620 Housing and Urban Development Department, dated 29.06.1990. Earlier, this Court while disposing the Writ petition in WP.No.4867 of 1994, by order dated 13.12.2000, recorded the petitioner's submissions and passed the following order in paragraph 4, which is extracted below:

"Hence, it is suffice to permit the petitioner to approach the Government seeking the benefit of G.O.Ms.No.620, Housing and Urban Development Department, dated 29.06.1990 within thirty days from the date of receipt of a copy of this order and the respondent shall pass appropriate orders on the application of the petitioner within ninety days from the date of receipt of such representation by the petitioner. Till then, the respondents shall maintain status quo."

7. No doubt, the Hon'ble Division Bench of this Court in a case between Velusamy and the Government of Tamilnadu reported in (2000) 1 CTC 530 has held that there is no prohibition under the Land Acquisition Act, 1894 to proceed with the acquisition if the layout has been approved with respect to the land in question and therefore, it is for the Government to take appropriate decision in the matter whether, they require the impugned lands of the petitioner.

8. In this case, vide order dated 13.12.2000 made in WP.No.4867 of 1994 the petitioner was directed to approach the Government seeking the benefit of G.O.Ms.620 of Housing and Urban Development Department, dated 29.06.1990 within 30 days from the date of receipt of copy of that order and the respondent shall pass appropriate orders on the application of the petitioner within 90 days of such representation by the petitioner and till then the respondent to maintain the status

quo. In such circumstances, when the order was passed on 13.12.2000 directing the petitioner to approach the Government seeking the benefit of G.O.Ms.No.620 of Housing and Urban Development Department, dated 29.06.1990 within 30 days from the date of receipt of a copy of that order and on such representation by the petitioner, the respondent was directed to pass appropriate orders within 90 days thereafter, the petitioner seems to have approached the respondent only on 13.12.2007, after a lapse of 7 years, seeking to extend the benefit of G.O.Ms.No.620 Housing and Urban Development Department, dated 29.06.1990.

9. In the mean while, the first respondent has also passed the impugned order in his proceedings letter No.38123/L.A.I(ii)/02-16, dated 03.10.2007 prior to the representation dated 13.12.2007 of the petitioner. The petitioner only after receipt of the impugned order, has made his representation on 13.12.2007, after a lapse of 7 years. There is no valid reason stated in the affidavit in support of this Writ petition as to what prevented the petitioner to make any representation immediately before the concerned authorities, after the receipt of earlier order dated 13.12.2000. Eventhough, the petitioner had the benefit of orders passed in the earlier writ petition without complying the condition passed in the earlier order, he cannot seek any relief in the present writ petition, after 7 years.

10. The first respondent has passed the impugned order stating that award has been passed to the land under reference and the award payment has been made under Sections 31 and 31(2) of the Land Acquisition Act, 1894 as the petitioner is not a registered land holder. In the light of the above statements the respondents have rightly rejected the request of the petitioner for reconveyance of the land in Survey No.297/3A5 situate at Keelkattalai Village, Tambaram Taluk, Kancheepuram Distirct and it is valid. Hence, this Court is not inclined to interfere with the impugned order passed by the respondent. The writ petition fails and accordingly, is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

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Sd/-
Assistant Registrar(CS VIII)

//True copy//

Sub Assistant Registrar

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To

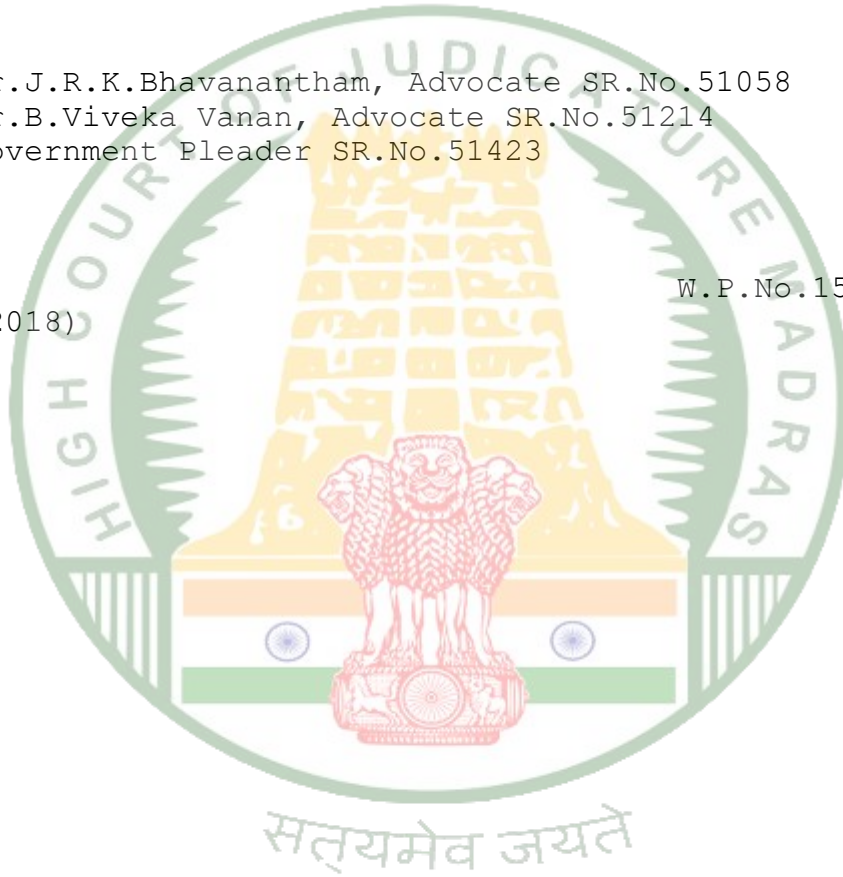
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+1cc to Mr.J.R.K.Bhavanantham, Advocate SR.No.51058
+1cc to Mr.B.Viveka Vanan, Advocate SR.No.51214
+1cc to Government Pleader SR.No.51423

GN(06/08/2018)

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