

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2018

CORAM : THE HON'BLE Mr.JUSTICE N.SESHASAYEE

W.P.Nos.39487, 40921 & 40930 of 2016

1.K.N.Somasundaram ... Petitioner in WP.No.39487 of 2016
2.N.Jegadeeswari ... Petitioner in WP.No.40921 of 2016
3.S.Balasundaram ... Petitioner in WP.No.40930 of 2016

Vs.

1. The State of Tamil Nadu
Represented by the Secretary
Housing & Urban Development Department
Fort St.George
Chennai - 600 009.
2. The Chairman
Tamil Nadu Housing Board
Anna Salai
Nandanam
Chennai - 600 035.
3. The Special Tahsildar (L.A.IX)
Tamil Nadu Housing Board
Anna Salai
Nandanam
Chennai - 600 035. ... Respondents in all WPs

Prayer in WP.No.39487 of 2016: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus to direct the respondents, Land Acquisition Authorities to issue notice to the petitioner, enquire the petitioner with his documents and fix the compensation for the petitioner's lands given in the schedule of the property infra at the rate of four times the market value as per the provisions of Land Acquisition, Rehabilitation and Resettlement Act 2013 prevailing as on date for the petitioner's lands since they were situate in rural area of Kanchipuram District when acquiring the lands.

SCHEDULE OF PROPERTY

Survey Nos.	Land in Ares	Nanja Land in cents
301-1	0.15.0	0.38

Survey Nos.	Land in Ares	Nanja Land in cents
301-2A	0.11.5	0.28
301-2B	0.24.5	0.60
301-3A	0.14.0	0.35
301-3D	0.15.0	0.37
301-6B	0.20.0	0.50
302	0.07.0	0.17
307-1A	0.07.0	0.17

Situate in Sozhinganallur Village & Taluk, Kanchipuram District.

Prayer in WP.No.40921 of 2016: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus to direct the respondents, Land Acquisition Authorities to issue notice to the petitioner, enquire the petitioner with her documents and fix the compensation for her lands given in the schedule in the writ petition at the rate of four times the market value as per the provisions of Land Acquisition, Rehabilitation and Resettlement Act 2013 prevailing as on date for the lands with an extent of 9114 sq.ft. since they were situate in rural area of Kanchipuram District when acquiring the lands.

SCHEDULE OF PROPERTY

Survey Nos.	Land in Ares	Nanja Land in cents
300	0.04.5	11 cents - 4774 sq.ft.
679-2A	0.04.0 Punja Land	10 cents - 4340 sq.ft.
Total :		31 cents = 9114 sq.ft.

Situate in Sozhinganallur Village & Taluk, Kanchipuram District.

Prayer in WP.No.40930 of 2016: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus to direct the respondents, Land Acquisition Authorities to issue notice to the petitioner, enquire the petitioner with the petitioner documents and fix the compensation for the petitioner's lands given in the schedule in the writ petition at the rate of four times the market value as per the provisions of Land Acquisition, Rehabilitation and Resettlement Act 2013 prevailing as on date for the petitioner lands with an extent of 16482 sq.ft. since they were situate in rural area of Kanchipuram District when acquiring the lands.

SCHEDULE OF PROPERTY

Survey Nos.	Land in Ares	Nanja Land in cents
301/6A	15.5	38 cents
al :	Tot	38 cents = 16482 sq.ft

Situate in Sozhinganallur Village & Taluk, Kanchipuram District.

For Petitioners : Mr.R.G.Annamalai

(in all WPs)

For Respondents : Mr.M.Karthikeyan

(in all WPs)

Additional Government Pleader[R1, R3]

Mr.B.Vivekavannan [R2]

O R D E R

1.1. The petitioners in these writ petitions seek compensation in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30/2013) (hereinafter referred to as "The Right to Fair Compensation Act"). Broadly, the learned counsel for the petitioners submits that the petitioners herein own several plots of land spread over various survey numbers at Sozhanganallur Village & Taluk, Kanchipuram District. According to the petitioners, their property was sought to be acquired Vide notification dated 26.07.1990 issued under Section 4(1) of the Land Acquisition Act, 1894, followed by a declaration under Section 6 of the Act dated 06.6.1990, and thereafter an award under Section 11 of the Act was passed on 23.11.2001. Earlier the petitioners have moved this Court by filing W.P.No.38302 of 2003, W.P.No.38303 of 2003 and W.P.No.38304 of 2003 respectively with a prayer that notwithstanding the acquisition of lands and passing of awards, no compensation was paid and their properties too have not been utilised, and accordingly sought a direction from this Court invoking Section 48 of the Land Acquisition Act, 1894. This Court allowed the said writ petitions which forms part of an order in a batch of writ petitions, with a direction to consider their representations.

1.2. Subsequently, the petitioners have preferred W.P.No.20164, 20165 and 20166 of 2014 seeking to invoke Section 24(2) of the Right to Fair Compensation Act. This was taken along with a batch of writ petitions and was disposed of by a common order dated 03.07.2015. In the said order, this Court has recorded the statement of the learned Additional Advocate General to the effect that the property pertains to which the petitioners seek

to establish some rights are classified as Government wet lands. Recording the same, these petitions were dismissed.

1.3. The petitioners thereafter preferred W.A.Nos.1453 to 1455 of 2015 and when the same came before this Court on 21.06.2017, the same was withdrawn. It appears that during the pendency of the said writ appeals, the petitioners have filed the present writ petitions seeking enhancement of compensation in terms of the Right to Fair Compensation Act.

2. Some of the facts pertaining to the earlier writ petitions in W.P.Nos.20164 to 20166 of 2014 and the subsequent writ appeals in W.A.Nos.1453 to 1455 of 2015 have not been disclosed in the affidavits of the petitioners filed in support of the present petitions. When these facts are brought to the notice of this Court in the earlier posting, this Court insisted the petitioners to file an affidavit to this fact and a common affidavit was filed which merely states that there was an omission merely on the part of the petitioners to inform the present counsel of those proceedings, but on the legal consequences that flow from the earlier orders, petitioners chose to remain silent (a) as to the nature of their pleadings in their earlier petitions and (b) the nature of the orders passed and its consequences and implications.

3. Mr.M.Karthikeyan, learned Additional Government Pleader appears for the respondents 1 to 3 and Mr.B.Vivekavanan, learned counsel for the second respondent.

4. Mr.B.Vivekavannan, learned counsel appearing for the Housing Board made a submission that the petitioners have futilely attempted to invoke Section 24(2) of the Right to Fair Compensation Act in the earlier batch of writ petitions in W.P.Nos.20164 to 20166 of 2014 before this Court, and lost them and challenged the said orders in W.A.Nos.1453 to 1455 of 2015 which they withdrew on 21.06.2017, and that in the course of hearings of writ appeals, the petitioners made a statement that they would work out their remedy under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30/2013) whereas, the very writ petitions themselves were filed by them for invoking Section 24(2) of the said Central Act 30 of 2013, and that the present batch of writ petitions are an abuse of judicial process and they litigate on the cause of action twice over.

5. When this Court has already held in W.P.No.20164 to 20166 of 2014 that the properties in relation to which the petitioners seek to establish right to invoke Section 24(2) of the Right to Fair Compensation Act, is a poromboke piece of lands, there is hardly any right that is left in them to contest or to institute

a new proceeding on the same set of facts seeking an identical reliefs as was in the earlier petitions. In this regard, if the notification issued under Section 4(1) of the Land Acquisition Act, 1894 is perused, which are made available in the typed set of papers of the petitioner, (at Page 53 and 54 of the typed set of papers in W.P.No.39487 of 2016) that all the properties that were listed above in relation to which the petitioners seek to claim that they are the owners, are classified as "Government Wet Lands" and "Government Dry Lands", and it probably based on this, the learned Government Advocate has made a statement before the Court that disposed of W.P.No.20164 to 20166 of 2014.

6. It is unfortunate that the petitioners refuse to accept that they are the encroachers of the Government lands. If at all, they have right over the lands in which they claim title are not the Government properties, in fitness of things, they ought to have filed civil suits which they have not done. The present endeavour of the petitioners is adventurous, speculative and constitute absolute abuse of judicial process of this Court. Litigants such as the petitioners, who are relentless in the pursuit to waste the judicial time almost converting the Court into casinos are a bane to the legal system. They waste the time which the Court could easily divert to cases where a citizen who cry for justice.

7. In conclusion there is no merit in the petitions and therefore, the writ petitions are dismissed with a cost of Rs.10,000/- in all which the petitioners are directed to pay before the Legal Services Authority within a period of two months from today.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

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To:

1. The State of Tamil Nadu
Represented by the Secretary
Housing & Urban Development Department
Fort St.George
Chennai - 600 009.

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2. The Chairman
Tamil Nadu Housing Board
Anna Salai
Nandanam
Chennai - 600 035.

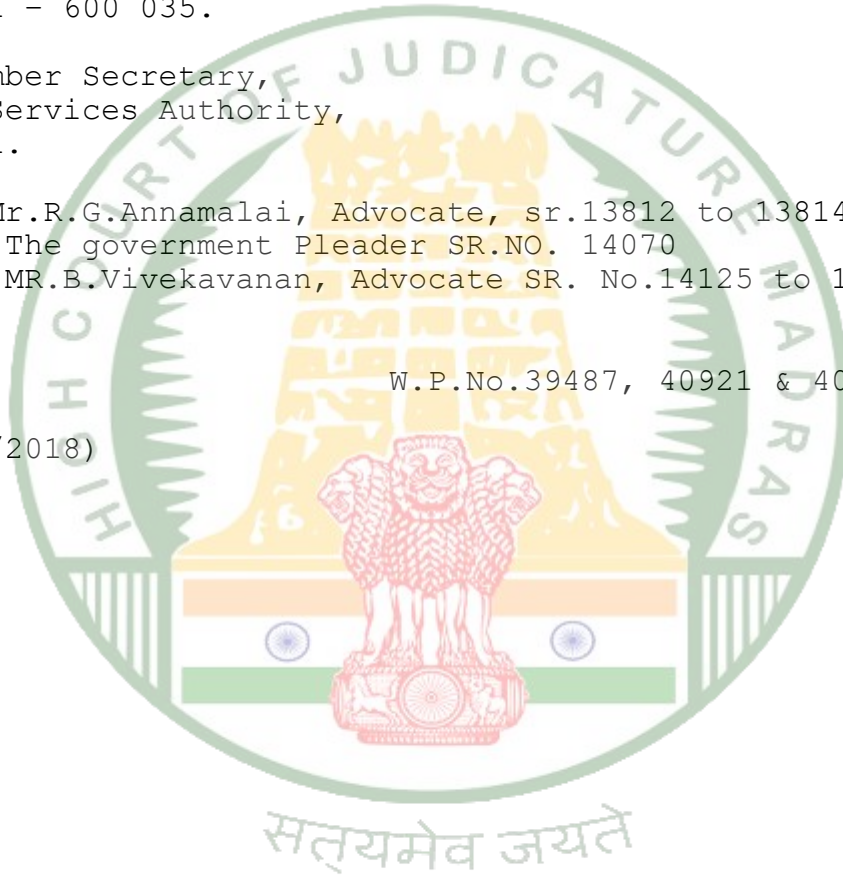
3. The Special Tahsildar (L.A.IX)
Tamil Nadu Housing Board
Anna Salai
Nandanam
Chennai - 600 035.

4. The Member Secretary,
Legal Services Authority,
Chennai.

+3ccs to Mr.R.G.Annamalai, Advocate, sr.13812 to 13814
+1 CC TO The government Pleader SR.NO. 14070
+3 CC TO MR.B.Vivekavanam, Advocate SR. No.14125 to 14127

W.P.No.39487, 40921 & 40930 of 2016

RMP (23/03/2018)



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