



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 09.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.15708, 7422 and 788 of 2017
and

W.M.P.(MD)Nos.12414, 12415 of 2017

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W.P.(MD)No.15708 of 2017

P.Dhanalakshmi,

... Petitioner

Vs.

1.The Secretary to Government,
Ministry of Housing and Urban Development,
Secretariat, Chennai.

2.The Chairman,
Tamilnadu Housing Board,
493, Anna Salai,
Nandanam, Chennai.

3.The Executive Engineer,
Tamilnadu Housing Board,
Ellisnagar, Madurai-16.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorari to call for the records of the third respondent's notification published in the newspaper dated 01.07.2017 and set aside the same.

For Petitioner : Mr.M.Mohamed Sherbudeen
For R1 : Mr.M.Rajarajan
Government Advocate
For R2 & R3 : Mr.R.Janarthanan

W.P.(MD)No.7422 of 2017

P.Dhanalakshmi

... Petitioner

Vs.

1.The Secretary to Government,
Ministry of Housing and Urban Development,
Secretariat, Chennai.

2.The Chairman,
Tamilnadu Housing Board,
493, Anna Salai,
Nandanam, Chennai.

3.The Revenue Divisional Officer,
Aruppukottai,
Virudhunagar District.

... Respondents

District
Court.

For Petitioner : Mr.M.Mohamed Sherbudeen
For R1& R3 : Mr.M.Rajarajan
Government Advocate
For R2 : Mr.R.Janarthanan

... Respondents

For Petitioner : Mr.M.Mohamed Sherbudeen
For R1& R3 : Mr.M.Rajarajan
Government Advocate
For R2 : Mr.R.Janarthanan

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a public notification on 01.07.2017 inviting applications from interested persons for purchase of the plots. This notification is questioned in W.P.(MD)No.15708 of 2017.

2.The learned counsel appearing for the petitioner herein submitted that the petitioner did not receive any compensation amount. He also pointed out that he had submitted applications for reconveyance under Section 48(b) of the Land Acquisition Act. His contention is that when his application for reconveyance is pending, it is not open to the third respondent to proceed with the impugned sale process.

3.I am unable to agree with the said submission. As rightly pointed out by the learned counsel appearing for the Tamil Nadu Housing Board, the lands were acquired more than three decades ago and have since been handed over to Tamil Nadu Housing Board. Now it is the absolute property of the Tamil Nadu Housing Board. In fact, the lands are free from any encumbrance. It is open to the Tamil Nadu Housing Board to plot out the acquired lands and sell the same to the eligible and interested applicants from the general public. The petitioner's rights in the land got extinguished long time back.

4.Therefore, I am of the view that the impugned notification published by the Tamil Nadu Housing Board cannot be questioned. The contention that it is not open to the Tamil Nadu Housing Board to go ahead with the impugned process when an application for reconveyance is pending, cannot also be accepted. The petitioner has no right to be reconveyed with the property in question. In any event, the matter is between the petitioner and the Government. The Tamil Nadu Housing Board is not obliged to take note of the same. Since, the impugned auction of the Tamil Nadu Housing Board cannot be faulted on any other ground, the writ petition is liable to be dismissed.

5.Accordingly, W.P.(MD)No.15708 of 2017 is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

W.P.(MD)Nos.788 and 7422 of 2017

The petitioners herein seek a disposal of their representations filed under Section 48(b) of the Land Acquisition Act. The representations have been filed only in the year 2016 and 2017. The 1894 Act has since been repealed as the new Act came into force in the year 2014. Therefore, an application for reconveyance under Section 48(b) of the repealed Act is clearly not maintainable. Only if the writ petitioners can show that they have a legal entitlement, the question of issuance of a writ of mandamus will arise. Since, the petitioners are invoking a provision of the statute that has since been repealed, the question of issuing a mandamus will not arise.

2.That apart, it is seen that the acquired lands have since been utilized. Therefore, I am of the view that both these writ petitions do not deserve any consideration.



3. Accordingly, W.P.(MD)Nos.788 and 7422 of 2017 are dismissed.
No costs.

4. The dismissal of these writ petitions will not come in the way of the petitioners from working out their rights in any other manner known to law.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar(CS-III)

To

1. The Secretary to Government,
Ministry of Housing and Urban Development,
Secretariat, Chennai.

2. The Chairman,
Tamilnadu Housing Board,
493, Anna Salai,
Nandanam, Chennai.

3. The Executive Engineer,
Tamilnadu Housing Board,
Ellisnagar, Madurai-16.

4. The Revenue Divisional Officer,
Aruppukottai,
Virudhunagar District.

+3CC to Mr.R.Janarthanan, Advocate, SR.No.94714, 94715, 94716
+1CC to the Special Government Pleader SR.No.94747

W.P. (MD) Nos.15708, 7422
and 788 of 2017
and
W.M.P. (MD) Nos.12414
and 12415 of 2017
09.11.2018

PNN
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