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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2019

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.11778 of 2013
and M.P.No.2 of 2013

- 1.R.Ganesan
- 2.Thavamani Devi Palaniswami
- 3.P.R.Perumalsamy
- 4.K.Kasigoundan
- 5.A.Ayeegounden
- 6.N.C.Sadasivam
- 7.Vani Varalakshmi Thirumoorthi
- 8.A.Natesan
- 9.R.P.Periyammal
- 10.P.Manickam
- 11.K.C.Ramasamy
- 12.Manju
- 13.Marappa Subramaniam
- 14.Singaram Jegadeesan
- 15.V.Rajendran
- 16.Venkateswaran
- 17.R.Muthusamy
- 18.Santhakannan
- 19.Jagathambal
- 20.Ponnusamy Palanisamy
- 21.Sengodagounder
- 22.Sundaramoorthi
- 23.Nallabanu Durai
- 24.Easwari
- 25.Savithri

...Petitioners

Vs.

1. State of Tamil Nadu,
Rep. by its Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai - 600 009.
2. The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.



3. The Special Tahsildar (Land Acquisition),
Tamil Nadu Housing Board,
Tatabad, Coimbatore - 2.

4. The Tahsildar,
Coimbatore North Taluk Office,
Coimbatore.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the entire records which culminated in issuing the notification under Section 4(1) of the Land Acquisition Act in G.O.Ms.No.1216, Housing and Urban Development Department dated 17.09.1991, published in Part II and Section 2 of the Tamil Nadu Government Gazette dated 09.10.1991 and the consequential declaration made under Section 6(1) of the Land Acquisition Act issued in G.O.Ms.No.934, Housing and Urban Development Department dated 31.12.1992, published in Part II Section 2 of the Tamil Nadu Government Gazette dated 05.01.1993 on the file of the first respondent and quash the same.

For Petitioners: Mr.M.Krishnappan
Senior Counsel
for Mr.T.Sellapandian

For Respondents
R1 & R4 : Mr.D.Raja
Additional Government Pleader

R2, R3 : Mr.Vijayanarayan
Advocate General
Assisted by Dr.R.Gowri

O R D E R

This writ petition has been filed by one R.Ganesan and 24 others praying for issuance of writ of Certiorari to quash the land acquisition proceedings pursuant to the notification under Section 4(1) of the Land Acquisition Act, 1894 [hereinafter referred to as "the Act"] in G.O.Ms.No.1216, Housing and Urban Development Department dated 17.09.1991.

2. The first petitioner is the owner of the land and the petitioners 2 to 25 are the purchasers of housing plots in a layout developed by the first petitioner which was approved by the Principal Secretary, Town Planning Authority, Coimbatore by proceedings dated 21.08.1990. The lands owned by the first petitioner was subject to land acquisition proceedings by issuance of the impugned notification under Section 4(1) of the Act dated 17.09.1991. It is not disputed by the respondents that the name of the first petitioner finds place in the



notification issued under Section 4(1) of the Act. The first petitioner after obtaining approval of the layout by proceedings dated 21.08.1990 has divided the land into plots and sold the same in favour of the petitioners 2 to 25. Majority of the petitioners 2 to 25 have in turn obtained approval of building plan and put up construction of their individual houses and are residing there. The revenue officials have granted patta to the petitioners 2 to 25 by proceedings dated 13.09.2011. Thus the land has been fully utilized by the petitioners and they are in uninterrupted possession and enjoyment of the land. The purpose of acquisition was to form a Neighborhood Scheme of Tamil Nadu Housing Board in Kalapatti Village, Coimbatore District. The 4 (1) notification and the declaration under Section 6(1) of the Act which is the subject matter of challenge in this writ petition was challenged in the year 2003 itself by other land owners in W.P.No.13616 of 2003. The said writ petition along with other batch of cases where writ petitions were filed questioning the acquisition proceedings were clubbed together in W.P.Nos.16417 of 1998, etc batch and were allowed by common order dated 30.08.2010. The writ appeals against the said decision before the Division Bench to which I was a party in W.A.Nos.422 of 2011 etc. batch were dismissed by common judgment dated 14.09.2011. The respondents had filed Special Leave Petitions before the Hon'ble Supreme Court in Special Leave to Appeal (Civil) Nos.6063-6066/2012 which were dismissed by order dated 13.04.2012. Another batch of Special Leave Petitions in Special Leave to Appeal (Civil) Nos.14582-14634/2012 were dismissed by order dated 19.09.2012. All the above decisions have become final and the lands which were sought to be acquired from the respective writ petitioners were quashed. Consequently, those writ petitioners are in possession and enjoyment of the said lands. The petitioners are before this Court by filing this writ petition in the year 2013 seeking for an identical relief as that of in W.P.No.13616 of 2003. Under normal circumstances, the only option available to this Court is to apply the decision in the aforementioned case and allow the writ petition.

3.Mr.Vijay Narayan, learned Advocate General assisted by Dr.R.Gowri, learned counsel for the respondent Housing Board vehemently opposed the prayer sought for in the writ petition and his submissions are three fold. Firstly, when the writ petitions were allowed by the learned Single Bench of this Court by order dated 30.08.2010, the facts of each cases were taken into consideration and separate reasons were assigned by the learned Single Bench; therefore, the petitioners cannot seek for an identical relief. The second ground raised by the learned Advocate General is that the petitioners should be branded as fence sitters as they have approached this Court 17 years after the acquisition proceedings had concluded and there



is no explanation for the inordinate and unexplained delay and the writ petition is liable to be dismissed. The third contention raised is that the writ petition is not maintainable as it has been filed after the award has been passed and the challenge to the acquisition proceedings should fail. With regard to the second ground of challenge, the learned Advocate General referred to the decision of the Hon'ble Division Bench of this Court in the case of S.Harshavarthan and another vs. State of Tamil Nadu and others [(2005) 3 CTC 691] and the recent decision of the Hon'ble Supreme Court in the case of Shiv Kumar and another vs. Union of India and others [C.A.No.8003/2019 dated 14.10.2019].

4.Since these preliminary objections were raised by the learned Advocate General, the Court heard his submissions at the first instance.

5.In reply, Mr.M.Krishnappan, learned Senior Counsel assisted by Mr.T.Sellapandian, learned counsel for the petitioners submitted that the acquisition proceedings initiated against the first petitioner's land was quashed in W.P.No.13616 of 2003 at the instance of the neighbouring land owners who had challenged the very same notification and the first petitioner after obtaining approval from the competent authority on 21.08.1990 has divided the land into housing layout and sold the plots to the petitioners 2 to 25 who have purchased the plots and put up individual houses and patta has also been granted in the year 2011. When some of the petitioners who had purchased the plot and yet to put up construction had approached the Town Planning Authorities, they were informed that they should obtain No Objection Certificate from the Tamil Nadu Housing Board. At that juncture, i.e. during January 2013, when they approached the Tamil Nadu Housing Board, they were informed that though the acquisition proceedings have been quashed at the instance of the other land owners, unless the petitioners obtains orders from this Court, the Housing Board will not be in a position to issue any No Objection Certificate. Therefore, it is submitted that the petitioners should not be treated as fence sitters as they had no occasion to challenge the acquisition proceedings as the entire acquisition proceedings stood dropped on account of various orders passed by this Court and affirmed by the Division Bench and the Hon'ble Supreme Court. Therefore, it is submitted that it will be inequitable and arbitrary if the petitioners are denied the relief and the petitioners have invested their hard earned money, purchased the housing plot, put up construction and some of them are in the process of putting up construction and the others who have plans to put up construction and all their hard earned money would stand wasted and great and irreparable prejudice would be caused to them. Further the learned Senior Counsel would submit that the purpose of



acquisition is for a scheme of the Housing Board and it will be illogical for the respondents to acquire the approved layout, demolish the houses constructed and once again sell the same as housing plots.

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6.The Court elaborately heard the submissions on either side and carefully perused the materials placed on record.

7.Since the learned Advocate General has raised a preliminary objection as regards the maintainability of the writ petition on three grounds as mentioned above, the Court proceeds to decide the same at the first instance. It is not in dispute that the first petitioner is the registered land owner and his name found place in the Section 4(1) notification issued in G.O.Ms.No.1216, Housing and Urban Development Department dated 17.09.1991 and Section 6(1) declaration in G.O.Ms.No.934, Housing and Urban Development Department dated 31.12.1992. The very same notifications were the subject matter of challenge in W.P.No.13616 of 2003 and the notifications were quashed. It may be true that the first petitioner was not the petitioner in W.P.No.13616 of 2003, yet as on date, G.O.Ms.No.1216, Housing and Urban Development Department dated 17.09.1991 and G.O.Ms.No.934, Housing and Urban Development Department dated 31.12.1992 have been quashed and does not survive, that would mean that it is quashed for all purposes and the Housing Board cannot take a stand that it is quashed in respect of those petitioners alone. If that is so, then the Housing Board should have taken appropriate observations either before the learned Single Bench or before the Hon'ble Division Bench. Therefore, this Court finds that there is no reason to deny the benefit of the order in W.P.No.13616 of 2003 to the present writ petitioners. Having held so, it has to be decided as to whether the petitioners can be denied the relief as the argument of the learned Advocate General is that each and every writ petition in the batch was considered by the learned Single Bench on its merits and findings have been recorded. This submission does not merit acceptance because after taking note of all the infirmities in the acquisition proceedings, the learned Single Bench allowed the writ petitions by a common order with common observations were made as contained in paragraphs 77 to 79 of the order. For better appreciation, the same is quoted herein below:

"77.If the issues are analysed in this angle, certainly the writ petitioners have made out a case in their favour. Though an opportunity was given by the court for the Government to set right after noting the ground realities, they have not come forward to redress the grievance of the present petitioners and they themselves gave relief to certain individuals. The basis of which



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was not explained to the satisfaction of this court. Therefore, this court will have to be proceeded on the basis of the following findings:

a) Unimaginable and unrealistic extent of lands were initially notified;

b) Substantial areas have been excluded either before Section 4(1) notification or after 4(1) notification and in some cases even after the Award was passed;

c) Resort to exercise power under Section 48B to reconvey the properties to certain individuals;

d) On the basis of recommendation made by the High Level Committee, some lands were excluded;

e) This court had quashed many proceedings under Section 4(1) notification and Section 6 declaration and did not give any liberty to proceed afresh. They were not challenged either in higher forums or no fresh notifications were issued to retain the so-called composite nature of scheme.

f) When this court recorded that proceedings have been dropped in Kalappatty village in two of the reported judgments, no attempt was made either to seek for clarification or deny the statements recorded by this court;

g) When this court instead of dealing with the validity of Section 4(1) and 6 in the cases which are filed on time gave liberty to the petitioners to move the Government with the fond hope that the Government will redress the grievances of the land owners, the Government not only did not deal with the case but denied the relief, thereby drove the petitioners to approach this court. In this process, they have lost their valuable right to question and succeed in assailing the Section 4(1) notification and Section 6 declaration.

78. This Court in many cases relating to Kalapatty village found that there were approved layouts with the sanction of authorities and the Government Order itself had directed to refrain from acquiring the land which are covered by the approved layouts. Finally, after finding that there were lots of law and order problem in the area when this court directed the State Government to take a pragmatic stand, that was also rejected. Considering the fact that in some cases, there were procedural lapse and in some cases, there were acquisition proceedings in respect of a college property which is in existence for over 10 years catering to the needs of about 3000



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students, it will be unrealistic to destroy such edifice especially when the right to education is guaranteed as a fundamental right. Many of the petitioners with their hard earned money have purchased plots and put up constructions to have a shelter of their own. The Housing Board in the name of providing houses cannot destroy the existing shelters put up by individual endeavors.

79. In the present case, it is not a mere negative equality the petitioners are pleading. Because the State never attempted to justify the reconveyance and exclusions on the ground of either they were isolated instances or they were based on erroneous assumptions. On the contrary, the counter affidavits filed were vague and did not deal with the contentions raised by the petitioners in these batch of writ petitions. Under these circumstances, this court has no hesitation to set aside the orders passed against the petitioners."

8. The above finding was tested for its correctness before the Division Bench which affirmed the order and the writ appeals were dismissed. In the said appeals, the Division Bench took note of the judgment in W.A.Nos.252 to 255 of 2011 while allowing the writ appeals. The Division Bench in its judgment dated 14.09.2011 took note of all the decisions on the said point and dismissed the appeals. It will be beneficial to refer to the following paragraphs of the judgment of the Division Bench:

9. Thus, after taking note of the earlier orders passed by this Court, the learned Single Judge, allowed the writ petitions, and quashed the land acquisition notification. It may be relevant to note that the Judgments and Orders in the Writ Petitions and Writ Appeals which were referred by the learned Single Judge have become final and no appeals have been preferred against the same. In fact, this Court while deciding the Writ Appeals being W.A.Nos. 252 to 255 of 2011, considered the validity of the Notification issued in respect of the said scheme and the following finding was recorded:

"8. It is seen that these batch of writ petitions are not the first set of cases, which were decided by this Court, challenging the same acquisition proceedings. It appears that the first batch of writ petitions were filed during 1994, being W.P.No.12201 of 1994 etc. challenging the Section 4(1) notification, the writ petitions were disposed of by a common judgment, dated



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20.03.2001, by observing that it may not be proper for the State Government, to spent huge public money for the acquisition proceedings, to acquire the lands of the petitioners therein with superstructure and keep the land idle, if the scheme could not be successfully implemented. Therefore, this Court permitted the petitioners therein to approach the Government seeking exemption or reconveyance. Another batch of cases were filed during 1996, in W.P.Nos.9747 to 9749 of 1996, challenging the notification issued under Section 4(1) and Section 6 of the Act and the notifications were set aside, with the further observation that the Government will take in to account ground realities before proceeding with the acquisition. The other writ petition challenging the same acquisition proceedings in Dr.N.Natarajan vs. Government TN MANU/TN/0526/2020, was allowed and the notification was quashed. In Chinnayyagoundar vs. State of Tamil Nadu 2003 (2) MLJ 481, the challenge was to the same acquisition proceedings and the writ petition was allowed and the acquisition was quashed. While allowing the said writ petition, the Court took note of the fact that they were approved layouts and even as per the policy of the Government, those lands are not to be acquired. It is seen that the Division Bench of this Court in more than one decision has quashed the land acquisition proceedings in respect of the same scheme. In Arumuga Goundar vs. State of Tamil Nadu, reported in MANU/TN/7522/2006, the Hon'ble Division Bench presided by Justice P.Sathasivam (as he then was) observed that the entire Kalapatti Neighbourhood Scheme has not been implemented till date and several orders have been passed by this Court, quashing the acquisition proceedings. In M.Duraisamy vs. State of Tamil Nadu reported in 2007 (3) MLJ 288, another Division Bench of this Court, quashed a notification, in respect of the same scheme and observed that it is not in dispute that the entire Kalapatti Neighbourhood Scheme has been dropped in view of the several orders passed by this Court. In Tmt.Leelavathi vs. State of Tamil Nadu reported in MANU/TN/0586/2008 and in Dhandapani and another vs. State of Tamil Nadu, 2008 (5) MLJ 1416, the learned Single Judges of this Court have quashed the notifications and took note of the fact that



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the entire Kalapatti Neighborhood Scheme has been dropped. Therefore, we have no hesitation to hold that the learned Single Judge was perfectly justified in following the earlier Division Bench judgment and allowing the writ petitions, wherever prayer was made for quashing the acquisition proceedings."

9. In the light of the findings recorded by the learned Single Bench as affirmed by the Division Bench, the benefit of the order passed in the earlier writ petitions challenging the very same notification needs to be extended to the writ petitioners. Therefore, the first contention raised by the learned Advocate General is answered against the respondents

10. The second contention is that whether the writ petition can be dismissed on the ground of delay and laches and the third contention is that writ petition is not maintainable as it has been filed after the award has been passed. The explanation offered by the petitioners is contained in paragraph 8 of the writ affidavit. This contention has not been denied by the respondents. That apart, the Tamil Nadu Housing Board understood the effect of the judgment to mean that the concerned Government Orders issued under Section 4(1) and Section 6 of the Act stood quashed. That is the reason why they insisted for a Court order from the petitioners for issuing No Objection Certificate. It is not in dispute that the first petitioner is the registered land owner and had obtained approval for layout on 21.08.1990 much prior to issuance of Section 4(1) notification. In such circumstances, it would be inequitable and unreasonable to deny the relief to the writ petitioners. It is not the case of the respondent Board that though the writ petitions were allowed on 30.08.2010, they understood the judgment to benefit only to the writ petitioners therein and they took action in respect of the other land to form a scheme. In absence of any such approach by the respondent Board, it has to be held that the Housing Board understood the effect of the order and judgment to mean that the Government Orders have been quashed. Any other interpretation would be erroneous. Therefore, the question of delay and laches cannot be put against the petitioners. With regard to the decision of the Division Bench relied on by the learned Advocate General in the case of S. Harshavarthan and the judgment of the Hon'ble Supreme Court in the case of Shiv Kumar, those decisions laid down the legal principle that the writ petition is not maintainable after an award is



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passed. To be noted, an identical issue was raised in a batch of cases which were dealt with by the learned Single Bench, some of which had been filed for a slightly different relief, i.e. for the purpose of issuing No Objection Certificate, issuing a direction to register the sale deed, issue a writ of Mandamus to consider their representation, issue a writ of Declaration to declare that the entire acquisition proceedings are lapsed and considering all the varied prayers in the writ petitions, the learned Writ Court passed a common order and quashed the entire acquisition proceedings. Therefore, the facts of the present case are totally unique in the sense that the larger issue which was considered by the writ court was whether the scheme as proposed would survive. First of the decision to drop the lands out of the acquisition proceedings was at the instance of the Government that was taken note of by the learned Single Bench and those letters dropping the acquisition proceedings were referred to by the learned Single Bench in its order dated 30.08.2010 in paragraph 7 of the order and it will be beneficial to refer to the said paragraph, which are as follows:

"7. After taking further time from this court, the State Government, by its letter, dated 09.07.2009 informed this Court the decision of the State Government. It is necessary to extract the entire communication for better appreciation of the facts involved:

Housing and Urban
Development Department,
Secretariat, Chennai-9.

Letter No.29425/L.A.3(2)/08-12, dated 09.07.2009.

From

Thiru K.S.Sripathi, I.A.S.,
Chief Secretary to Government of Tamil Nadu.

To

The Registrar (Judicial)
High Court of Madras,
Chennai-104 (w.e.)

Sir,



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Sub : W.P.No.10316 of 99, 14599 of 99, 14600 of 99, 15253 of 99, 16514 to 16521 of 99, 17891 of 99, 19436 to 19440 of 99, 5615 to 5622 of 2000, 6099 of 2000 and 7778 of 2000 - High Court of Madras
Filed by J.Sivakumaran and others against acquisition of lands at Kalapati village, Coimbatore District Reg.

Ref: 1.Order dated 26.11.2008 of High Court of Madras in W.P.Nos.10316 of 1999 etc.
2.Order dated 30.1.2009 of the High Court of Madras in W.P.Nos.10316 of 1999 etc.
3.Order of High Court of Madras dated 30.3.2009 in W.P.No.10316 of 1999 etc.
4.Order of High Court of Madras dated 27.4.2009.

This has reference to the direction given by the Hon'ble High Court in its order dated 26.11.2008 in W.P.No.10316 of 1999 etc. filed by Thiru J.Sivakumaran and others, pertaining to the issue of acquisition of land measuring an extent of 197373 acres in Kalapatti Village, Coimbatore District.

2.The High Court in its order dated 26.11.2008 in the said Writ petitions has directed

3.As ordered by the Hon'ble High Court of madras on 26.11.2008, the meeting was convened by the Chief Secretary to Government on 16.12.2008 and it was decided to place the matter before the High Level Committee for its recommendation. Accordingly, the Managing Director, Tamil Nadu Housing Board has been requested to place the entire Land Acquisition proceedings at Kalapatti Village, Coimbatore District before the High Level Committee for its suggestions/recommendations.

4.The High Level Committee after conducting field inspections, has made its suggestions on the land acquisition proceedings in Kalapatti Village, Coimbatore District. The Managing Director, Tamil Nadu Housing Board has forwarded the Board's Resolution No.8.03, dated 13.04.2009 on the High Level Committee's suggestions for taking policy decision by the Government.

5.The Government, after careful consideration of the issue, finally decided to retain the land measuring an extent of 530.19 acres only in Kalapatti Village, Coimbatore District for implementing housing scheme. A report on the decision taken in respect of the land acquisition proceedings in Kalapatti Village, Coimbatore District is furnished herewith along with the



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statement indicating extent of lands with survey numbers that will be required by the Housing Board for implementing housing scheme, as directed by the High Court.

Yours faithfully,

for Chief Secretary to Government."

No useful measures to alleviate the problems faced by the land owners was even suggested by the Government."

11. Further, the learned Single Bench noted that out of the total extent of land which was quashed, namely, 1443.54 acres, only 530.19 acres of land was remained with the Board and the remaining were allowed to lapse excluded by the Government from the land acquisition proceedings and in some cases, writ petitions were allowed and acquisition was quashed. The Court also noted yet another decision of the Government in its Government Letter dated 18.12.2007, where the Government accepted the recommendations of the High Level Committee and excluded the lands from acquisition. The said letter has been referred to in paragraph 11 of the order passed by the learned Single Bench which is quoted herein below:

"11. It is necessary to reproduce the entire letter as it had become the sheet anchor for many of the petitioners seeking the relief of reconveyance. The letter reads as follows:

Housing and Urban
Development Department,
Secretariat, Chennai-9.

Letter Ms.No.397/L.A.3(2)/07-4, dated : 18.12.07

From

Thiru R.Sellamuthu, I.A.S.,
Secretary to Government.

To

Tmt.K.Palaniammal,
D.No.11-A, PSG College Colony,
Peelamedu, Coimbatore-4.

Sub : Housing and Urban Development Department
Land Acquisition Tamil Nadu Housing Board Kalapatty
village Coimbatore District Acceptance of
recommendation of High Level Committee to
reconvey the lands to Tmt.K.Palaniammal after
collection of charges as per Board's Resolution -



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Orders Issued.

- Ref : 1.From Tmt.K.Palaniammal, Letter dated 05.04.2007.
2.From the Tamil Nadu Housing Board Letter No.L.A.4(5)/80205/2004, dated 31.10.2007.

In the representation dated 6.12.2004, you have requested the Government to reconvey the land in S.No.801/1G, 801/1H and 801/2 part measuring to an extent of 98 cents in Kalapatty village, Coimbatore District stating that you have bought the land from the Legal heirs of ex-land owner without knowing that the land already been acquired by the Tamil Nadu Housing Board.

2.Your request was examined in consultation with the Tamil Nadu Housing Board and it was rejected by the Government in Government Lr.No.43220/L.A.3(2)/04-12, dated 27.3.2007 since the land is essentially required to form compact and comprehensive housing scheme.

3.In your letter dated 5.4.2007, you have stated that a Commission has been appointed to go into similar claims made by the various land owners whose lands are still available vacant for reconveyance and requested the Government to reconsider the rejection orders issued by Government on 27.3.2007 and to pass fresh orders for reconveyance of the land in S.No.801/1G, 801/1H and 801/2 part in Kalapatty village, Coimbatore District.

4.Based on your request the Government has requested the Tamil Nadu Housing Board to place the above issue before the High Level Committee headed by the retired High Court Judge for its examination and recommendations. The report has been given by the High Level Committee after inspection of the site and going through the back papers, relevant files, earlier legal opinion, some court decisions and status report of the Tahsildar. It has been observed by the High Level Committee that though the award was passed for 24.32 acres of land including the land of the petitioner very long back in Award No.101/95, no land has been taken possession by Tamil Nadu Housing Board and no scheme has been formulated till now. According to the High Level Committee, you appear to be an innocent purchaser without the knowledge of the land acquisition



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proceedings.

Hence, the High Level Committee recommended for the reconveyance of land in question viz., 98 cents in S.No.801/1G, 801/1H and 801/2 part in Kalapatty village, Coimbatore District on collecting the cost of land as paid to the original land owner or deposited together with interest and other expenses incurred by the Housing Board in the acquisition proceedings or any amount as fixed by the Government.

5.The Housing Board in its resolution 8.05, dated 16.10.2007 has decided to forward the proposal to the Government. The Government hereby accept the recommendations of the High Level Committee and also the Resolution passed by the Board in Resolution No.8.05, dated 16.10.2007 to collect the cost of land as paid to the original land owners or deposited together with interest and other expenses incurred by the Housing Board in the acquisition proceedings. Further administrative cost arising out of the Board staff may be added to the cost to be collected while reconveying the land in S.No.801/1G, 801/1H and 801/2 part in Kalapatty village, Coimbatore District to Tmt.K.Palaniammal. Accordingly the Government hereby directs the Tamil Nadu Housing Board to reconvey the above mentioned land to Tmt.K.Palaniammal after following usual procedures.

Yours faithfully,

for Secretary to Government

(Emphasis added)

All the above facts would clearly demonstrate that the case on hand requires a different treatment and the decision relied on by the respondents cannot be put against the petitioners to non-suit them. Therefore, the second and third contentions are also answered against the respondents.

12.The learned Advocate General had produced before this Court Maps to show that the project is still viable for consideration. An observation to the said effect has been made by the learned Single Bench while allowing the writ petitions stating that the lands ever after being fractured, if the Housing Board as per revised scheme wants to go ahead with building houses this exclusion will in no way hamper it. For all these years, a small extent of land has been shown to have been developed as TNHB Colony comprised in S.Nos.794, 795, 809 and 810 indicated as No.61 in the map produced before this Court. Considering the vast extent of land which was acquired,



the Court finds that the said TNHB Colony is a very meagre extent. In any event, the reasons assigned in the preceding paragraphs can only lead to the conclusion that the writ petitioners are entitled to the relief sought for.

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13. For all the above reasons, the writ petition is allowed as prayed for and the impugned land acquisition proceedings are quashed and the respondents are not entitled to interfere with the peaceful possession and enjoyment of the petitioners or their successors in interest, obtain patta in their names and also building plan approval, etc for which the Corporation or Town Planning authorities cannot insist for NOC from TNHB. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

1. The Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai - 600 009.
2. The Managing Director,
Tamil Nadu Housing Board, Nandanam, Chennai - 600 035.
3. The Special Tahsildar (Land Acquisition),
Tamil Nadu Housing Board, Tatabad, Coimbatore - 2.
4. The Tahsildar,
Coimbatore North Taluk Office, Coimbatore.

+2 Ccs to Mr.T. Sellapandian, Advocate sr 100769, 100676

+1 CC to Dr.R. Gowri, Advocate sr 100769

+1 CC to The Govt. Pleader sr 101175.

W.P.No.11778 of 2013
and M.P.No.2 of 2013

AK(CO)
SP(31/12/2019)