

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2019

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.A.No.977 of 2013

and

M.P.No.1 & 2 of 2013

M.Murugesan,
S/o.S.Munivegadappa,
No.MIG-67, TNHB Colony,
Thayappa Garden (Via), Hosur,
Kirshnagiri District - 109. ... Appellant/Petitioner

Vs

1.The Government of Tamil Nadu,
Rep. by the Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai 600 009.

2.The Managing Director,
Tamil Nadu Housing Board,
No.33, Anna Salai, Nandanam, Chennai 35.

3.The Special Thasildar,
(Land Acquisition),
Housing Scheme, Hosur,
Dharmapuri District. Respondents/Respondents

PRAYER : Writ Appeal filed against the order passed by this Court in W.P.No.26450 of 2012 dated 03.10.2012.

PRAYER IN WP.No.26450 of 2012: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus calling for the records relating to impugned letter No.31557/L.A2(2)/09-9 dated 12.7.2011 passed by the 1st respondent and quash the same and consequentially directing the respondents to Reconvey the property situated in survey No.572/A and in survey No.575 to an extent of 1.38.5 Hecter in Village Krishnagiri District.

For Appellant :Mr.E.Vijay Anand
For Respondents :Mr.V.Anandhamoorthy (for R1 & R3)
Additional Government Pleader
Ms.Gowri (for R2)
Standing counsel

J U D G M E N T

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

The appeal has been filed against the dismissal of Writ Petition No.26450 of 2012 filed by the then land owner whose property has also been acquired by the Government for housing scheme by issuance of 4(1) notification dated 30.01.1992.

2.The acquired property of the petitioner was comprised in survey No.572/A and 575 to an extent of 1.38.5 hectares in Hosur village, Krishnagiri District. According to the petitioner the property has not been utilised and many of the neighbours have got the property re-conveyed under Section 48(B) of the Land Acquisition Act. The request of the petitioner for re-conveyance was rejected by order dated 12.07.2011 by the 1st respondent. The said order was challenged before the learned single Judge of this Court in W.P.No.26450 of 2012. After contest the said Writ Petition was dismissed by the learned single Judge relying upon the judgment of the Hon'ble Supreme Court in Leelawanti Vs. State of Haryana reported in AIR 2012 SC 515 in a similar circumstances.

3.Once on similar facts of this case, the Hon'ble Supreme Court took a view that the Writ Petition is not maintainable, the same is binding upon this Court. Moreover, the proceedings were already challenged before this Court in W.P.No.4076 of 1994 and the said Writ Petition was also dismissed by this Court and the Land Acquisition proceedings have become final. In those circumstances also, the Writ Petition is not maintainable. Further, irrespective of the fact that the acquired property is utilised or not, the appellant cannot rely upon 48(B) of the Act for re-conveying the property. It is only the discretion of the Government and this Court cannot compel to exercise the discretion in a particular manner. Therefore, the order of the learned single Judge has to be approved and the appeal is liable to be dismissed.

4.Accordingly the Appeal is dismissed. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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To

1.The Government of Tamil Nadu,
Rep. by the Secretary to Government,
Housing and Urban Development Department,
Fort St. George,
Chennai 600 009.

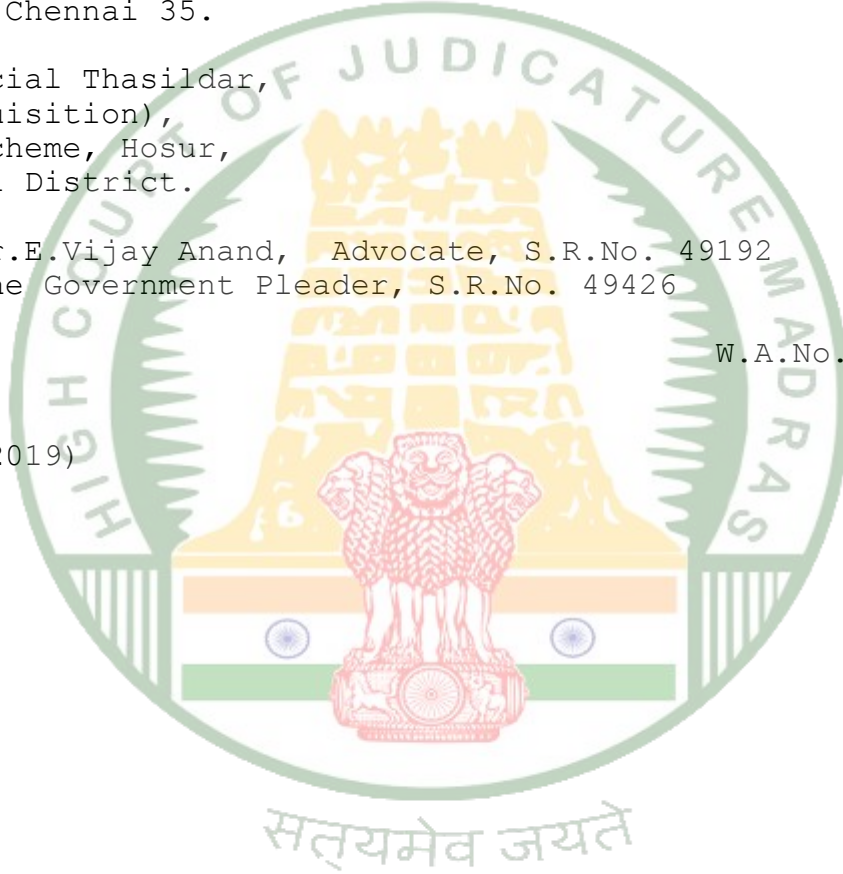
2.The Managing Director,
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No.33, Anna Salai,
Nandanam, Chennai 35.

3.The Special Thasildar,
(Land Acquisition),
Housing Scheme, Hosur,
Dharmapuri District.

+lcc to Mr.E.Vijay Anand, Advocate, S.R.No. 49192
+lcc to the Government Pleader, S.R.No. 49426

W.A.No.977 of 2013

SKV(CO)
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