

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.11.2019
CORAM
THE HONOURABLE MR.JUSTICE M.DHANDAPANI
W.P.No.15974 of 2012

1 S.VALLIAMMAI
2 S.ESWARI .. Petitioners
Vs

1 Secretary to Government of Tamilnadu
Housing & Urban Development
Department, Fort St. George,
Chennai 600 009.
2 The Chairman,
Tamilnadu Housing Board,
493, Anna Salai,
Nandanam, Chennai 600 035.
3 The Special Tahsildar,
Tamilnadu Housing Board
Coimbatore Housing Unit,
Tatabad, Coimbatore- 641 012. Respondents
(R3 Suo moto impleaded as per order
of the Hon'ble Court, dated 26.02.2018 by NSSJ)

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorari calling for the records in impugned notification issued U/S 4 (1) of the Land Acquisition Act vide G.O.Ms.No.47 Housing and Urban Development Department dt 5.2.1992 and published in Tamilnadu Government Gazette 16.4.1993 and declaration U/S 6 of the Land Acquisition Act vide G.O.Ms.No.298 Housing and Urban Development Department dt 15.4.1993 and published in the Tamilnadu Gazette dt 16.4.1993 in respect of the petitioners land in plot No.152 and No.130 in Gurusamy Nagar Peelamedu Coimbatore Corporation in Survey No.373 Vilankurichi Village Coimbatore measuring 2010 sq.ft. and 2200 sq.ft. respectively and quash the same.

For Petitioners : Mrs.Sudharshana Sunder
For Respondents : Mr.Akhil Akbar Ali for R1& 3
Mrs.DR.R.Gowari for R2

ORDER

1.The petitioners have filed this writ petition seeking issuance of a Writ of certiorari to call for the records in impugned notification issued Under Section 4 (1) of the Land Acquisition

Act vide G.O.Ms.No.47 Housing and Urban Development Department dated 5.2.1992 and published in Tamilnadu Government Gazette dated 16.4.1993 and declaration Under Section 6 of the Land Acquisition Act vide G.O.Ms.No.298 Housing and Urban Development Department dated 15.4.1993 and published in the Tamilnadu Gazette dated 16.4.1993 in respect of the petitioners land in plot No.152 and No.130 in Gurusamy Nagar Peelamedu Coimbatore Corporation in Survey No.373 Vilankurichi Village Coimbatore measuring 2010 sq.ft. and 2200 sq.ft. respectively and quash the same.

2. The case of the petitioner is that the petitioner was working as a staff nurse in Chennai and retired in the year 2004, she purchased a land at Peelamedu, Coimbatore Corporation called as Gurusamy Nagar in Plot No.152, to the extent of 20.10 square feet and the same was registered as document No.3546 on 21.06.2005 and the said land purchased after verifying the encumbrance certificate issued by the Registration Department, lay out approval accorded by Town and Country planning department on 05.03.1987 and approval accorded by the Coimbatore Corporation on 21.07.1988. At the time of purchase there were several houses constructed with the Corporation roads, street lights and drinking water supply provision in the location. According to the petitioner, she was purchased another lay out in Plot No.130, Kurusmy Nagar after verifying the encumbrance certificate, lay out of the approval etc,. The approval of lay out was given by the Director, Town and Country planning department on 05.03.01987 for about 199 plots. After purchasing the lay out, it appears that the petitioner approached the concern Tahsildar for transfer of patta, who in turn refused to grant the same, since the land including the petitioners lay out has already been acquired by the Tamil Nadu Housing Board by issuing 4(1) notification which was approved by the Government on 05.02.1992 and an award was also passed on 18.4.1995 per hectare. The grievance of the petitioner is that she was under bona fide impression that since the lay out has been approved by the Director of Town and Country Planning department and even TNEB has given power connection and Coimbatore Corporation also given water supply connection to the houses constructed therein. Since, the claim of the petitioner for grant of patta, was not considered, the petitioner made a representation to the Housing Board on 21.10.2010, requesting for exempting the lands purchased by the petitioner which was rejected. Since the Government by proceedings dated 12.2.2008, rejected the request for exempting the lands. The petitioner once again sent representation to the Housing Board on 12.02.2008, but there was no reply, which prompted the petitioner to approach this Court by way of filing this present Writ Petition, challenging the 4(1) notification and also consequential declaration.

- 3.The learned counsel appearing for the petitioner would submit that after a careful verification of the encumbrance certificate and since the lay out has been approved by the Director of Town and Country Planning department dated 05.03.1987, the petitioner had purchased being the bona fide purchaser and to a shock and surprise, when the petitioner applied for approval of patta, it was not considered by the concern Tahsildar on the ground that the subject land purchased by the petitioner has already been acquired by the Housing Board by issuing impugned 4(1) notification and subsequent declaration which cannot be sustained and the same are liable to be quashed.
- 4.On the other hand, the learned counsel appearing for the Housing Board/second respondent herein would submit that after following the formalities the Government has acquired the lands as early as in the year 1992 itself, since 4(1) notification was issued vide G.O.Ms.No.47 Housing and Urban Development Department, dated 05.02.1992 and subsequent declaration was made under Section 6 of the Land acquisition Act vide G.O.Ms.No.298, Housing and Urban Development Department dated 15.04.1993 and the acquisition was also published in the Tamil Nadu Gazette dated 16.04.1993 in respect of the lands including the petitioners also. The learned counsel also would submit that the petitioner purchased the land on 21.06.2005 i.e., after lapse of nearly 13 years, further at this distant point of time the petitioner has no loco standi to challenge the acquisition proceedings which have been initiated in accordance with law and approved by publishing the same in the Tamil Nadu Gazette notification. Therefore, the learned counsel would submit that this writ petition is not maintainable and the same is liable to be dismissed.
- 5.Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondents.
- 6.A perusal of the records available on record, it is seen that the petitioner is a subsequent purchaser of the land in question which has already been acquired much prior to his purchase i.e. 13 years back. A notification under Section 4(1) of the Land Acquisition Act was issued in the year 1992 itself, vide G.O.Ms.No.47 Housing and Urban Development Department dated 05.02.1992 and made declaration in the year 1993 vide G.O.Ms.No.298 Housing and Urban Development Department dated 15.04.1993 and publication was effected in Tamil Nadu Gazette dated 16.04.1993, it is pertinent to note that the erstwhile owners viz., the vendors of the petitioners have not raised any objections or challenged the 4(1) notification, the petitioner who is the subsequent purchaser

has only entered into the picture having purchased the subject land in the year 2005. As rightly submitted by the learned counsel appearing for the Housing Board, Tamilnadu since already the acquisition proceedings having ended long back without any protest, the petitioner cannot now agitate those proceedings and that the petitioner being the subsequent purchaser and have no loco standi. If this Writ Petition is entertained at the instance of the petitioner it would certainly unsettle the settled affairs which cannot be entertained by this Court at this distant point of time.

7. For the above foregoing reasons, this Writ Petition stands dismissed. No costs.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

jrs

To

- 1 The Secretary to Government of Tamilnadu,
Housing & Urban Development,
Department, Fort St. George,
Chennai 600 009.
- 2 The Chairman,
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493, Anna Salai,
Nandanam, Chennai 600 035.
- 3 The Special Tahsildar,
Tamilnadu Housing Board
Coimbatore Housing Unit,
Tatabad, Coimbatore- 641 012.

+1cc to Mrs.Sudharshana Sunder, Advocate, SR.No.95410.
+1cc to Ms.Dr.R.Gowri, Advocate, SR.No.95420.
+1cc to Government Pleader, SR.No.96578.

W.P.No.15974 of 2012

VSNII(CO)
CSR: 30.01.2020