

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.07.2019

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.10195 & 10196 of 2009
and
MP.2 of 2009

J.S.Akthene @ Kathija Bi

..Petitioner in
both writ petitions

Vs.

1. The State of Tamil Nadu
by Secretary to Government,
Housing & Urban Development Department,
Secretariate, Chennai - 600 009.
2. The Chairman-Cum-Managing Director
Tamil Nadu Housing Board
Chennai.
3. The Executive Engineer &
Administrative Officer (E),
Villupuram Housing Unit,
Tamil Nadu Housing Board,
Villupuram.
4. The Assistant Engineer,
Tamil Nadu Housing Board,
Gundu Salai,
Cuddalore - 607 001.
5. The Special Tashildar,
(Land Acquisition),
Housing Scheme,
Semmandalam,
Cuddalore.

... Respondents in
both writ petitions

Common Prayer:

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ Certiorarified Mandamus, call for the records and quash Award No. 18/95 dated 03.02.1995 passed by the 5th respondent and consequently issue a Mandamus forbearing respondents from dispossessing the petitioner from

the property bearing plot Nos. 8 & 15 measuring 1760 sq.ft. & 1991 1/4 sq.ft. respectively in S.No.21/5 in Janalakshmi Nagar Extension, in Veli Semmandalam Village, Cuddalore Taluk, Cuddalore District.

For Petitioners : Mr.R.Gururaj
(in both writ petitions)

For Respondents : Mr.J.Ramesh, AGP
for R1
Mr.S.Vanchinathan
for R2, R3, R4
Mr.M.Elumalai
Government Advocate
for R5.
(in both Writ petitions)

C O M M O N O R D E R

Since the prayer in the above Writ Petitions are one and the same, they are clubbed together and a common order is passed.

2. Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ Certiorarified Mandamus, to call for the records and quash Award No. 18/95 dated 03.02.1995 passed by the 5th respondent and consequently issue a Mandamus forbearing respondents from dispossessing the petitioner from the property bearing plot Nos.8 & 15 measuring 1760 sq.ft. & 1991 ¼ sq.ft. in S.No.21/5 in Janalakshmi Nagar Extension, in Veli Semmandalam Village, Cuddalore Taluk, Cuddalore District.

3. The case of the petitioner is that she purchased sites measuring 1760 sq. ft. and 1991 1/4 sq. ft. in S.No.21/5 in Veli Semmandalam Village, Cuddalore Taluk by means of registered sale deeds dated 10.08.2005 & 14.10.2005 respectively as vacant sites. Immediately, the petitioner took possession of the property. The respondents initiated acquisition proceedings for the implementation of Neighbourhood Scheme by the Tamil Nadu Housing Board and a total extent of Hec.2.75.50 in R.S.No.21 of Veli Semmandalam Village in Cuddalore Taluk was notified under Section 4(1) of the Land Acquisition Act. The notification under G.O.Ms.No. 1253 issued by Housing & Urban Development Department dated 19.9.1991 is said to have been published in the Government Gazette dated 06.11.1991. Thereafter, the Publication is said to have been made in 2 Tamil Dailies "Namathu MGR" and "Viduthalai" on 27.12.1991 and publication is said to have been made on 08.02.1992. The publication has to be effected in 2 Tamil

Dailies which have wide circulation in the area, which is a settled law. In Cuddalore area "Daily Thanthi" and "Dhina Malar" have wide circulation. Publication should have been effected in these newspapers. Instead the publication was made in dailies which have virtually no circulation in the said area. Therefore, the contention of the petitioner is that she had no chance to know about the acquisition. A declaration under Section 6 of the Land Acquisition Act is said to have been published in the Government Gazette on 02.02.1993 and the same is not a notice.

4. The Award passed by the fifth respondent on 03.02.1995 is under challenge in the present Writ Petitions.

5. The very same issue was already dealt with by this Court in the case of Murugesu Naicker and two others vs. The Special Tahsildar, Land Acquisition (IV), Maraimalai Nagar Scheme, Kattankolathur, Chingleput District and another reported in 1998 (III) CTC 293 and the relevant paragraph is extracted here under;

"30. Now I shall consider the right of the subsequent purchasers. In the above batch, the petitioners in four writ petitions have purchased the lands subsequent to the acquisition proceedings. In this regard, it is worthwhile to refer the following decisions:- (1) Nagarajan and another v. Special Deputy Collector, Land Acquisition, 1995 (II) C.T.C. 142; and (2) Ajay Krishnan Shinghal v. Union of India, 1997 (I) C.T.C. 156. In the first case, namely Nagarajan and another v. Special Deputy Collector, Land Acquisition and another, 1995 (II) C.T.C. 142 a Division Bench of this Court has observed in the following manner:-

5. The Supreme Court had occasion to consider the right of a person, who has purchased the property subsequent to the notification under Section 4 (1) of the Act in Mir Fazeelath Hussain V. Special Deputy Collector, L.A., Hyderabad, 1995 (1) C.T.C. 438. The Court held that when the original owner did not choose to challenge the acquisition inspite of repeated notices, the person who purchased the property subsequent to the notification under Section 4 (1) of the Act, cannot challenge the proceedings in acquisition. The above judgement will govern this case and put an end to the arguments of the learned counsel for the petitioner."

6. The 6th declaration was issued on 02.02.1993 and the

Award was passed on 03.02.1995. The petitioner purchased the property in the year 2005. Thereafter, he filed these Writ Petitions challenging the award proceedings which is not maintainable.

7. Accordingly, the present writ petitions stand dismissed. No costs. Connected Miscellaneous Petition are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Housing & Urban Development Department,
Secretariate, Chennai - 600 009.
2. The Chairman-Cum-Managing Director
Tamil Nadu Housing Board, Chennai.
3. The Executive Engineer &
Administrative Officer (E),
Villupuram Housing Unit,
Tamil Nadu Housing Board,
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Tamil Nadu Housing Board,
Gundu Salai, Cuddalore - 607 001.
5. The Special Tashildar,
(Land Acquisition),
Housing Scheme, Semmandalam,
Cuddalore.

+1cc to Mr.R.Gururaj, Advocate, S.R.No.58259
+1cc to Mr.S.Vanchinathan, Advocate, S.R.No.57288
+1cc to the Government Pleader, S.R.No.28070

W.P.Nos.10195 & 10196 of 2009

VBA (CO)
CS/17/09/2019