

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 21.03.2019

CORAM
THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.19238 of 2009

M.Gowri

.. Petitioner

-vs-

1.The State of Tamil Nadu
rep. by the Secretary,
Housing & Urban Development Department,
Fort St. George, Chennai-600 009.

2.The Public Information Officer,
Salem Housing Division,
Iyyanthirumaligai Road,
Salem-636 008.

3.Deputy Secretary (LA),
Tamil Nadu Housing Board,
493, Anna Salai,
Nandanam, Chennai-600 035.

4.The Executive Engineer &
Administrative Officer,
Tamil Nadu Housing Board,
Salem Housing Unit, Salem-8.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus calling for the records of the first respondent bearing No.23521/NA4(2)/2006-2 dated 23.01.2007 and quash the same and direct the respondents to transfer back the property of the petitioner bearing Plot No.18 measuring an extent of 1584 sq.ft. Comprised in 46/3B, Kondichettypatti Village, Namakkal Taluk under Section 48 B of the Land Acquisition Act.

For Petitioner : Mr.S.Mukunth
for M/s.Sarvabhauman Associates

For respondents : Mrs.P.Rajalakshmi,
Additional Government Pleader
for R1 to R3

Mr.I.Sathish for R4

ORDER

The writ has been filed challenging the correctness of the impugned order bearing No.23521/NA4(2)/2006-2 dated 23.01.2007 passed by the first respondent and seeking a direction to the respondents to transfer back the property of the petitioner, bearing Plot No.18, measuring to an extent of 1584 sq.ft. comprised in 46/3B, situated at Kondichettypatti Village, Namakkal Taluk, under Section 48 B of the Land Acquisition Act.

2.According to the learned counsel appearing for the petitioner, the petitioner has purchased an extent of 2520 sq.ft. house site bearing Plot No.18, comprised in S.Nos.46/3, 46/4, situated at Kondichettypatti Village, Namakkal Taluk under a sale deed dated 06.10.1980 for a sum of Rs.2,500/-. However, the said land was acquired for the purpose of construction of houses by the fourth respondent herein and the Land Acquisition Officer has passed an Award dated 11.06.2007 determining the award amount of Rs.2,522.15 in Award No.19/1986-87. Although the said amount has been received by the petitioner under protest, reference under Section 18 had been made in L.A.O.P. No.104 of 1988 before the Subordinate Court, Namakkal for enhancement of compensation and the award amount was enhanced to a sum of Rs.28,157/-, but the petitioner has not received the same.

3.Learned counsel appearing for the petitioner would submit that the petitioner, after coming to know the fact that the respondents have used only an extent of 936 sq.ft. and the remaining 1584 sq.ft. has not been put to use and they are proposing to sell the un-utilised lands to third parties, has made several representations. In response to his representations, the third respondent sent a reply stating that the lands in respect of which transfer is sought for has already been used for forming the road and had been gifted to the local authority and the said enhanced amount had been received by her.

4.According to the learned counsel appearing for the petitioner, by reply dated 26.09.2004, the petitioner clarified that she was ready to return the sum of Rs.2,522.15 received by her. As the petitioner required only the land, but, not the compensation, she clarified that only an extent of 936 sq.ft. had been used and the remaining extent of 1584 sq.ft. has not been put to use. Thereafter, the second respondent rejected her request by letter dated 23.04.2009 enclosing the impugned order of the first respondent dated 23.01.2007. Therefore, the petitioner has come to this Court challenging the same.

5. On instructions, learned Additional Government Pleader appearing for the respondents would submit that the petitioner has received a sum of Rs.2,522.15 as per Award passed by the Land Acquisition Officer by his letter dated 11.06.2007 in Award No.19/1986-87 under the provisions of the Land Acquisition Act. Thereafter, a reference under Section 18 of the Land Acquisition Act was referred to the Sub Court, Namakkal for fixation of enhanced compensation and the Sub Court, Namakkal, by judgment dated 30.09.1996, has fixed enhanced compensation and this Court by judgment dated 29.04.2003, has confirmed the same. In the meanwhile, the possession of the land was taken over on 17.03.1988 and the Namakkal Neighbourhood Scheme Phase-III was also implemented in the petitioner's land and others during the year 1994 and after completion of scheme implementation process, the service amenities, such as roads, parks etc. were handed over to the local body on 26.12.1996 for further maintenance. Therefore, when the land acquired from the petitioner has also been utilised for Namakkal Neighbourhood Scheme Phase-III, the petitioner cannot maintain the writ petition after a lapse of 22 years from completion of Land Acquisition Proceedings.

6. I also fully agree with the submissions made by the learned Additional Government Pleader appearing for the respondents. When the petitioner has received the compensation by accepting the Award passed by the Land Acquisition Officer by his letter dated 11.06.2007 in Award No.19/1986-87 and a reference under Section 18 of the Land Acquisition Act, was made to the Sub Court, Namakkal, which by judgment dated 30.09.1996, has fixed enhanced compensation, then the same was confirmed by this Court by judgment dated 29.04.2003 and thereafter the possession of the land was taken over on 17.03.1988 and the Namakkal Neighbourhood Scheme Phase-III was also implemented in the lands including the petitioner, during the year 1994 and after completion of scheme implementation process, the service amenities, such as roads, parks etc. were handed over to the local body on 26.12.1996 for further maintenance, this Court is not inclined to entertain this writ petition after a lapse of more than 22 years from completion of Land Acquisition Proceedings. Accordingly, the writ petition fails and the same is dismissed. No costs.

Sd/-

Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

vga

To

1.The Secretary,
The State of Tamil Nadu
Housing & Urban Development Department,
Fort St. George,
Chennai-600 009.

2.The Public Information Officer,
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3.Deputy Secretary (LA),
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493, Anna Salai,
Nandanam,
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4.The Executive Engineer &
Administrative Officer,
Tamil Nadu Housing Board,
Salem Housing Unit,
Salem-8.

+1cc to M/s.Sarvabhuaman Associates, Advocate, S.R.No.27161
+1cc to the Government Pleader, S.R.No.28040

W.P. No.19238 of 2009

SSR (CO)

RRS (08/05/2019)



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