

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2019

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.37056 of 2004
and WPMP.No. 44482 of 2004

Smt. C. Rajeshwari

... Petitioner

vs.

1. State of Tamil Nadu,
rep. By the Secretary to Government,
Housing & Urban Development Department,
Fort St. George, Chennai -9.

2. The Tamil Nadu Housing Board,
Rep. By its Chairman,
Nandanam, Chennai -35.

3. The Executive Engineer,
and the Administrative Officer,
Tirunelveli Housing Board,
Kamarajar Salai, Anbu Nagar,
Tirunelveli - 627 011.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records of the 3rd respondent dated 17.11.2004 bearing letter NO.LA/521/82 and quash the same.

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

For Respondents: Mr.I. Sathish
Additional Govt. Pleader [R1]

Mr.R. Bharathkumar [R2 & R3]

ORDER

The writ petition has been filed challenging the order passed by the 3rd respondent directing the petitioner to vacate the premises and handing over the possession to the Housing Board.

2. The impugned order has been passed on the ground that the land in survey No.579/2 at Kulavanigar Village, Tirunelveli District has been acquired under the Land Acquisition Act for the Tamil Nadu Housing Board and an award has also been passed in the year 2001. Thereafter, the petitioner encroached the property and put up a construction. In the above circumstances, the impugned notice has been issued to the petitioner to vacate the premises, failing which suitable action would be taken to evict the petitioner. Now challenging the order, the present writ petition has been filed on the ground that during the year 1989, the petitioner's husband purchased the property and thereafter, he settled the property in favour of the petitioner in the year 2004. Right from the date of purchase, the property has been in possession and enjoyment of the petitioner. The petitioner did not serve with any notice for acquisition of the land. In the above circumstances, in absence of any valid acquisition, the third respondent can not ask the petitioner to vacate the premises.

3. The learned counsel appearing for respondents 2 and 3 has contended that already a land acquisition proceedings have been completed and compensation were paid in the year 2001 itself. Thereafter, the land was handed over to the 3rd respondent Housing Board. The learned counsel has also produced the records relating to the acquisition proceedings and also produced the copy of the award. From the records, it could be seen that land acquisition proceedings were issued in the year 1989. The land in dispute was also subject to acquisition, and a declaration was also issued under Section 6 of the Land Acquisition Act. Thereafter, the award also came to be passed on 04.06.2001 in favour of the petitioner's vendor one Shanmugasundaram, and the petitioner is only a subsequent purchaser.

4. In the aforesaid circumstance, this Court comes to the conclusion that the petitioner is only an encroacher and the challenge made to the impugned order is unsustainable.

Accordingly, the Writ Petition is dismissed. No costs.
Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mp

To

1. The Secretary to Government,
Housing & Urban Development Department,
Fort St. George, Chennai -9.
2. The Chairman,
The Tamil Nadu Housing Board,
Nandanam, Chennai -35.
3. The Executive Engineer,
and the Administrative Officer,
Tirunelveli Housing Board,
Kamarajar Salai, Anbu Nagar,
Tirunelveli - 627 011.

+1cc to M/s. Sarvabhauman Associates, Advocate sr.94337
+1cc to Government Pleader SR.NO. 94617
+1cc to Mr.R. Bharathkumar, Advocate sr.94561

सत्यमेव जयते

W.P.No.37056 of 2004
and WPMP.No. 44482 of 2004

nr(co)
nr 24/02/2020

WEB COPY