

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 19.07.2019
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.14669 and 11977 of 2016 and 18365 of 2017
And
W.M.P.Nos.12845, 10346 and 17395 of 2016

L.Selvam ... Petitioner in W.P.14669/2016

1.Mrs.Rani
2.Mrs.Kamakshi ... Petitioners in W.Ps.11977/2016 and
18365/2017

Vs.

- 1.The Government of Tamil Nadu
Represented by its Secretary,
Department of Housing and Urban Development,
Fort St.George,
Chennai 600 009.
... Respondents 1 to 3 in W.P.14669/16
and Respondents 1 and 2 in WP.18365/17
and Respondents 1 and 2 in WP.11977/16
- 2.The Chairman and Managing Director,
Tamil Nadu Housing Board,
Nandanam,
Chennai 600 035. ... Respondent in W.Ps.14669/2016
and 11977/2016
- 3.The Land Acquisition Officer (LAO) /
Special Tahsildar (LA)-I,
Tamil Nadu Housing Board Schemes,
Housing Board Complex,
Nandanam,
Chennai 600 035. ... Respondent in W.P.14669/2016
and 3rd Respondent in WP.11977/16

(R3 impleaded as per order
dated 17.06.2016 by NKKJ
in WMP No.17395 of 2016
in WP No.11977 of 2016)

3.The Tahsildar,
Ambattur Taluk,
Tiruvallur District,
Ambattur O.T.,
Chennai - 600 053. ...3rd Respondent in W.P.18365/2017

Prayer in W.P.No.14669 of 2016:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration declaring that the petitioner is entitled to have the benefit of the New Act (Act 30 of 2013) as the respondents did not take physical possession of the property i.e., Survey No.251/2, Padikuppam Village, Ambattur Taluk, Tiruvallur District an extent of 1 Acre 38.5 cents within 5 years from the date of passing award i.e. 28.5.1984 and compensation amount also not fully received and hence all the proceedings initiated under the Land Acquisition Act, 1894 are deemed to be lapsed and the property is free from acquisition proceedings in view of Act 30 of 2013.

Prayer in W.P.No.11977 of 2016:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration declaring that the petitioners are entitled to have the benefit of the New Act (Act 1 of 2013) called "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" as the respondents did not take physical possession of the property i.e., Survey No.251/2, Padikuppam Village, Ambattur Taluk, Tiruvallur District an extent of 1 Acre 38.5 cents after 28.5.1984 within a period of 5 years from the date of award dated 28.5.1984 and compensation amount also not fully received and hence all the proceedings initiated under the LA Act, 1894 are deemed to be lapsed and the property is free from acquisition proceedings in view of Act 1 of 2013.

Prayer in W.P.No.18365 of 2017:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 2nd and 3rd respondents to conduct survey of the land and demarcate the area belongs to the petitioners herein, measure Acre 1.38.5 cents in Survey No.251/2, Padikuppam Village, Tiruvallur District acquired by them under Land Acquisition Act and issue the boundary map to the petitioner's duly signed by the respondents giving the encroachment area in the occupation of the respondents over and above 1.38.5 cents.

For Petitioners : Mr.P.Subba Reddy
For Respondents : Mr.M.Elumalai for R1 and R3
Government Advocate
Mr.M.Baskar
Standing Counsel for TNHB

C O M M O N O R D E R

Pursuant to the order of the Hon'ble Apex Court dated 15.11.2016, made in Petitions for Special Leave to Appeal (C).....CC 21094-21095/2016, the writ petitions are listed before this Court today.

2.When the matter was taken up today, the learned counsel appearing for the petitioners filed Memos dated 19.07.2019, the relevant portion of which reads as follows:

"1.It is stated that, the case came up before the Hon'ble Court today, i.e., on 19.07.2019 and after the commencements of the arguments, the Hon'ble Court was pleased to enlighten us with regard to pendency of similar issue before the Hon'ble Supreme Court in S.L.P.No.37375 of 2018 where the supreme court have refrained the High Courts from dealing with the matter related to section 24 (2) of The Act, until disposal of the issues by the Full bench of Supreme court.

2.The Petitioner has filed the above Writ Petition to have the benefit under the Act, 30 of 2013, i.e., The Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013. The Petitioner further states that, the present writ petition falls under the ambit of section 24(2) of the Act, 30 of 2013, and on this issue a proceedings is pending before the Hon'ble Supreme Court of India referred by Two Benches to a Full Bench and now decision of full bench is awaited.

3.The Petitioner may be permitted to withdraw the Writ Petition and may be permitted to file fresh Writ Petition

immediately after the disposal of the Orders by the Hon'ble Supreme Court of India on this issue.

4.The subject matter of the Writ Petition is filed relating to an extent of 1 Acre and 38.5 Cents in Survey No.251/2, Padikuppam Village, Amabattur, Thiruvallore District."

3.It appears that the very same issue which arise in the writ petitions was referred to the Larger Bench of the Hon'ble Apex Court and that Larger Bench of the Hon'ble Apex Court seized the matter and issued direction to the High Courts not to deal with the matter relating to Section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013.

4.In view of the above and considering the Memos dated 19.07.2019, filed by the learned counsel appearing for the petitioners, these writ petitions are disposed of with liberty to the petitioners to file fresh writ petitions immediately after verdict of the Hon'ble Apex Court to enure the benefit of the Hon'ble Apex Court's order. It is open to the petitioners to raise all the issues, including excess land, immediately after verdict of the Hon'ble Apex Court.

5.The writ petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//सत्यमेव जयते
Sub Assistant Registrar

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To

1.The Secretary,
Department of Housing and Urban Development,
Fort St.George,
Chennai 600 009.

2.The Chairman and Managing Director,
Tamil Nadu Housing Board,
Nandanam,
Chennai 600 035.

3.The Land Acquisition Officer (LAO) /
Special Tahsildar (LA)-I,
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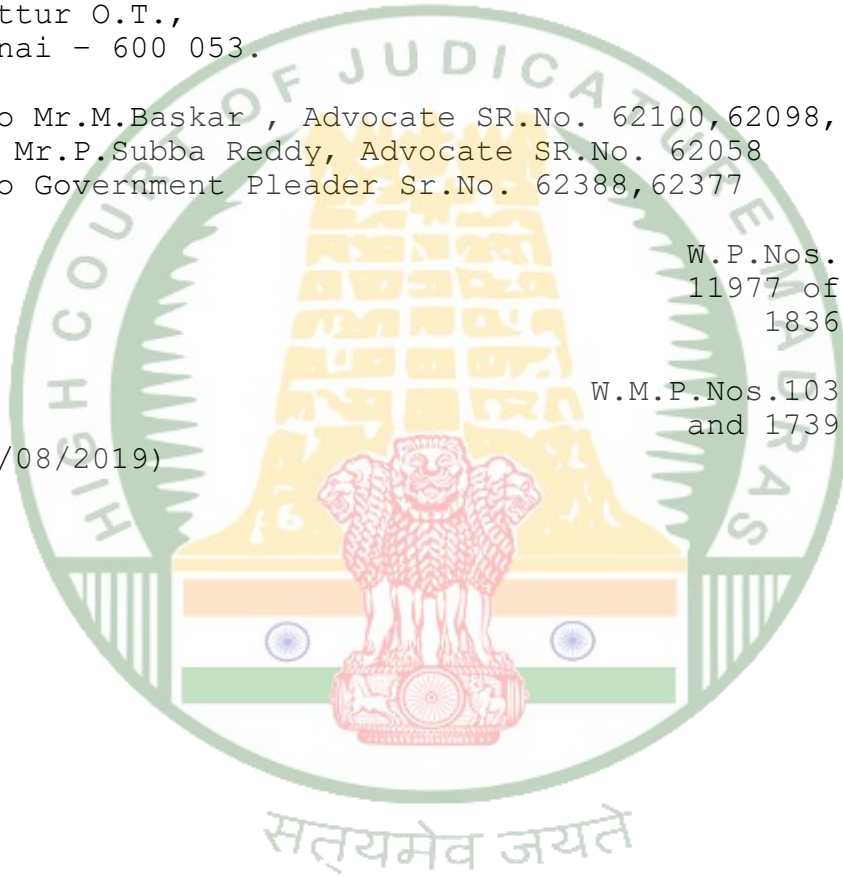
4.The Tahsildar,
Ambattur Taluk,
Tiruvallur District,
Ambattur O.T.,
Chennai - 600 053.

+3ccs to Mr.M.Baskar , Advocate SR.No. 62100,62098,62099
+1cc to Mr.P.Subba Reddy, Advocate SR.No. 62058
+1 cc to Government Pleader Sr.No. 62388,62377

W.P.Nos.14669 and
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A.SK(20/08/2019)



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