

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.26472 of 2011

and

M.P.No.2 of 2011

K.Chinnaponnu

...Petitioner

Vs.

1.The Government of Tamil Nadu
Rep. by its Commisisioner & Secretary,
Housing & Urban Development Department,
Fort St. George, Chennai 600 009.

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

... Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records of the first respondent in letter No. 10266/ LA1(1)/ 2007-22, dated 20.05.2011 and quash the same and direct the respondents to reconvey the land measuring an extent of 5 ½ cents comprised in Survey No. 268 /1 part of Mogappair Village, Ambattur Taluk, Tiruvallur District, in favour of the petitioner as agreed by the first respondent on 01.08.2006 by their Government Letter Ms.No.191, Housing and Urban Development, Fort St.George, Chennai 600 009 within the time as fixed by this Court.

For Petitioner : M/s.P.Subba Reddy

For Respondents : Mr.M.Elumalai for R1
Government Advocate
Mr.Baskar (TNHB) for R2

O R D E R

The petitioner filed this Writ Petition, praying to issue a writ of Certiorarified Mandamus, to call for the

records of the first respondent in letter No. 10266/ LA1 (1)/ 2007-22, dated 20.05.2011 and quash the same and direct the respondents to reconvey the land measuring an extent of 5 ½ cents comprised in Survey No. 268 /1 part of Mogappair Village, Ambattur Taluk, Tiruvallur District, in favour of the petitioner as agreed by the first respondent on 01.08.2006 by their Government Letter Ms.No.191, Housing and Urban Development, Fort St.George, Chennai 600 009 within the time as fixed by this Court.

2.The respondent initiated the Land Acquisition proceedings, against the above mentioned property. In the Land Acquisition proceedings, certain lands were acquired from the petitioner's father, namely late Kannayaram and some of the properties were reconveyed to the parties on the ground that approach road and the other ground realities are not favourable to the housing board.

3.To an extent of 5 ½ cents comprised in Survey No. 268 /1 part of Mogappair Village, Ambattur Taluk, Tiruvallur District, without approach road, it is kept idle, for which, the petitioner filed a petition under Section 48-B of Land Acquisition Act, 1896 for re-conveyance of the land to the petitioner. As against the inaction, the petitioner filed a Writ Petition before this Court. By an order dated 10.09.2009, this Court disposed of the Writ Petition by directing the respondents therein to consider the petitioner's representation for re-conveyance. In compliance with the order of this Court, the petitioner request was rejected and subsequently, the petitioner filed a contempt application.

4. The learned counsel appearing for the petitioner would submit that though initially the petitioner filed a petition under Section 48-B of Land Acquisition Act, 1896, however, the said Act was repealed by virtue of a new Act, Right to fair compensation and transparency in Land Acquisition, Rehabilitation, Resettlement Act, 2013 and still 48-B is available and the law is settled and the erstwhile land owner can seek re-conveyance of the land. Therefore, the learned counsel would implore this Court that without going into merits of the case, the petitioner would be satisfied if the petitioner permitted to file an application before the Tamil Nadu Housing Board, the second respondent herein, seeking for allotment of the land under ex-owner category since already an earlier occasion i.e., 01.08.2006 the Government recommended for re-conveyance of the land in favour of the petitioner and the second

respondent may be directed to pass appropriate order on the application being filed the petitioner within a reasonable time.

5.Mr.Baskar, learned counsel appearing for the respondents/Housing Board would submit that if any application is filed under Ex-owner category, the same will be considered and disposed of in the manner known to law.

6.Considering the facts and circumstance of the case and in view of the Act itself repealed, the first respondent cannot re-convey the land, the petitioner is permitted to move an application under ex-owner category before the second respondent/ Housing Board, seeking for allotment of the subject land. On such application being filed by the petitioner, the second respondent/ Housing Board is directed to consider the said application and pass appropriate orders in accordance with law and on merits within a period of four weeks from the date of receipt of the application.

7.With the above direction, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

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

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

+1cc to Mr.P.Subba Reddy , Advocate SR.No. 75350

+1 cc to Government Pleader Sr.No. 76198

+1cc to Mr.M.Baskar , Advocate SR.No. 75376

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A.SK(18/10/2019)