

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2019

CORAM

THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.Nos.6068, 6071, 6075, 6079, 6080, 6082, 6083,
6085, 6086, 6088, 6090, 6092 of 2019 &
Connected Miscellaneous Petitions

1 P.RAJALAKSHMI ... PETITIONER in WP No.6068 of 2019
1 O.S.JOSEPINE PETITIONER in WP No.6071 of 2019
1 D.G.GIRI ... PETITIONER in WP No.6075 of 2019
1 P.SRIDHARAN
2 P.ARIVU RAJ SARAVANAN ... PETITIONER in WP No.6079 of 2019
1 C.S.SANTHOSH RAJ ... PETITIONER in WP No.6080 of 2019
1 O.S.JOSEPINE ... PETITIONER in WP No.6082 of 2019
1 Y.SUNITHA ... PETITIONER in WP No.6083 of 2019
1 M.CHANDRASEKAR ... PETITIONER in WP No.6085 of 2019
1 C.L.SELVARAJ ... PETITIONER in WP No.6086 of 2019
1 M.RUKMANI AMMAL ... PETITIONER in WP No.6088 of 2019
1 G.SRIKANTH ... PETITIONER in WP No.6090 of 2019
1 J.SIVA PRAKASAM ... PETITIONER in WP No.6092 of 2019

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Housing and Urban Development Department,
Secretariat, Fort St. George,
Chennai - 600 009.

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

3.The Chief Revenue Officer,
Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.

4.The Executive Engineer,
K.K.Nagar Division,
Tamil Nadu Housing Board,
Ashok Nagar Shopping Complex,
Ashok Nagar, Chennai - 600 083.

5.The Superintending Engineer,
Chennai Circle,
Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.

..Respondents in all the
Petitions

W.P.6068/2019:The Writ Petition is filed under Article 226 of the Constitution of India, seeking for issuance of Writ of Declaration to declare that the land acquisition proceedings in respect of the land of an extent of 3600 sq.ft comprised in S.No.52, Valasaravakkam Village, Saidapet Taluk, Chengalpet District, as lapsed as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act, 2013.

WP No.6071 of 2019
Declaring the Land Acquisition Proceedings in respect of the Land of an extent of 2000 sq.ft. comprised in S. No. 51/ 1 and 51/ 2 and 2000 Sq.ft comprised in S.No. 51/ 2 and 52 Valasaravakkam Village, Saidapet Taluk, Chengalpet District, as lapsed as per Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act 2013

WP No.6075 of 2019
Declaring the Land Acquisition Proceedings in respect of the Land of an extent of 750 sq.ft. comprised in S. No. 51/1 and 51/2 Valasaravakkam Village, Saidapet Taluk, Chengalpet District, as lapsed as per Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act 2013

WP No.6079 of 2019
Declaring the Land Acquisition Proceedings in respect of the Land of an extent of 2400 sq.ft. comprised in S.No. 52 Valasaravakkam Village, Saidapet Taluk, Chengalpet District, as lapsed as per Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act 2013

WP No.6080 of 2019

Declaring the Land Acquisition Proceedings in respect of the Land of an extent of 1200 sq.ft. comprised in S. No. 52 Valasaravakkam Village, Saidapet Taluk, Chengalpet District, as lapsed as per Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act 2013

WP No.6082 of 2019

Declaring the Land Acquisition Proceedings in respect of the Land of an extent of 2400 sq.ft. comprised in S. No. 52 Valasaravakkam Village, Saidapet Taluk, Chengalpet District, as lapsed as per Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act 2013

WP No.6083 of 2019

Declaring the Land Acquisition Proceedings in respect of the Land of an extent of 3000 sq.ft. comprised in S.No. 51/ 1 and 52 Valasaravakkam Village, Saidapet Taluk, Chengalpet District, as lapsed as per Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act 2013

WP No.6085 of 2019

Declaring the Land Acquisition Proceedings in respect of the Land of an extent of 2140 sq.ft. comprised in S. No. 51/1 and 51/2 Valasaravakkam Village, Saidapet Taluk, Chengalpet District, as lapsed as per Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act 2013

WP No.6086 of 2019

Declaring the Land Acquisition Proceedings in respect of the Land of an extent of 2000 sq.ft. comprised in Plot No. 69 and 2000 Sq.ft comprised in Plot.No. 88 comprised in S.No. 51/ 2 and 52 Valasaravakkam Village, Saidapet Taluk, Chengalpet District, as lapsed as per Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act 2013

WP No.6088 of 2019

Declaring the Land Acquisition Proceedings in respect of the Land of an extent of 2000 sq.ft. comprised in S.No. 51/ 1 Valasaravakkam Village, Saidapet Taluk, Chengalpet District, as lapsed as per Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act 2013

WP No.6090 of 2019
Declaring the Land Acquisition Proceedings in respect of the Land of an extent of 1000 sq.ft. comprised in S. No. 51/1 and 52 Valasaravakkam Village, Saidapet Taluk, Chengalpet District, as lapsed as per Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act 2013

WP No.6092 of 2019
Declaring the Land Acquisition Proceedings in respect of the Land of an extent of 730 sq.ft. comprised in S.No. 51/ 1 and 51/ 2 Valasaravakkam Village, Saidapet Taluk, Chengalpet District, as lapsed as per Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act 2013.

For Petitioner : Mr. AR.L.Sundaresan
Senior Counsel,
For Mr.AL.Ganthimathi

For Respondent No.1: Mr.M.Elumalai
in W.P.6068, 6071,
6075 & 6090 Government Advocate for R1
Mr.D.Raja, AGP for R1 in W.P.6079,
6080, 6082 & 6092.

Mr.B.Vivekavannan
Standing Counsel (TNHB) for R2 to R5

C O M M O N O

R D E R

Since the issue involved in these Writ Petitions is one and the same, by consent, they are taken up together for final disposal by common order. Mr.M.Elumalai, learned Government Advocate takes notice for the first respondent; Mr.B.Vivekavannan, learned Standing Counsel (TNHB) takes notice for the respondents 2 to 5.

2. The prayer in these Writ Petitions is for issuance of Writ of Declaration, to declare that the land acquisition proceedings in respect of the petitioners' lands as lapsed as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act, 2013 (hereinafter called as "Section 24(2) of Act 2013")

3. According to the petitioners, the lands in S.Nos.51/2, 51/1 and 52, Valasaravakkam Village, Saidapet Taluk, Chengalpet District, were sought to be acquired for expansion of Kalaigarnar

Karunanidhi Neighbourhood Scheme by the Tamil Nadu Housing Board in the year 1986. Section 4(1) Notification has been issued vide G.O.Ms.No.899, Housing Department, dated 11.06.1975, G.O.Ms.No.125, Housing Department, dated 08.05.1975 and G.O.Ms.No.399, Housing Department, dated 08.05.1975 and Section 6 Declaration was made on 07.06.1978. Thereafter, the owners of the property have executed the Power of Attorney and later, the property was divided as plots and sold to various persons and they are in possession and enjoyment of the property since the date of purchase. It is alleged that in W.P.No.3683 of 1985 and etc., batch, various landowners have challenged the Land Acquisition Proceedings and this Court, by an order dated 08.10.1991, held that the Notification is vague and did not contain material particulars with clarity so as to enable the petitioners / landowners to make effective objections under Section 5(a) of the Act, and allowed the Writ Petitions. While so, some of the plot owners in S.No.51/1 received a notice alleging that the land comprised in S.No.51/1 has already been acquired under Award No.3 of 1986, dated 31.07.1986 and possession was taken on 02.09.1986 and the owners had encroached by way of constructing pucca building and thereby, trespassed into the land vested with the Tamil Nadu Housing Board and hence, a notice under Section 84(2) of the Tamil Nadu Housing Board Act has been issued to some of the landowners, directing the owners to remove the said unauthorized encroachment within 15 days from the date of receipt of the notice, failing which, they will be evicted under the provisions of the said Act. Likewise, S.Nos.51/2 and 52 are also part of the Award in Award No.3 of 1986 and the lands have already been taken over by the Housing Board on 02.09.1986 and the occupants are treated as encroachers. Hence, the petitioners are before this Court.

4. The learned Senior Counsel for the petitioners would submit that as per Section 24(2) of Act 2013, where an Award under Section 11 has been made 5 years or more, prior to the commencement of the Act, if physical possession of the land has not been taken or the compensation has not been paid, the said proceedings shall be deemed to have been lapsed and the State Government, if it so chooses, shall initiate the land acquisition proceedings of such land afresh in accordance with the provisions of this Act. It is further submitted that the land acquisition proceedings have already been set aside in W.P.No.3683 of 1985 and etc., and as on date, the respondents do not have any right over the land in S.Nos.51/1, 51/2 and 52. It is further added that the petitioners are in possession and enjoyment of the lands since their date of purchase and at no point of time, possession has been taken over by the Housing Board. Therefore, the learned Senior Counsel contended that the petitioners have satisfied the conditions stipulated under Section 24(2) of Act 2013 and the entire acquisition proceedings are lapsed.

5. According to the learned Standing Counsel appearing for the Board, as against the order passed in W.P.No.3683 of 1985 and etc., batch, the Government preferred an appeal, and this Court by judgment dated 21.12.2004 in W.A.No.1130 of 1997, set-aside the order passed by the learned Single Judge and allowed the Writ Appeals. However, it is a fact that the petitioners are now treated as encroachers in the aforesaid properties. He would further submit that some of the petitioners are directed to produce the documents before the Authorities under Section 84 (2) of the Tamil Nadu Housing Board Act, and if the same is submitted, the said documents will be considered in accordance with provision of law.

6. By considering the above said facts and circumstances of the case, this Court is inclined to pass the following directions:-

(i) The petitioners are directed to submit the explanation in response to the notice issued under Section 84(2) of the Tamil Nadu Housing Board Act, within a period of two weeks from the date of receipt of a copy of this order;

(ii) If the respondent-Board has not served notice under Section 84(2) of the Tamil Nadu Housing Board Act to some of the petitioners, they are permitted to issue notice under Section 84(2) of the Tamil Nadu Housing Board Act, within a period of one week from the date of receipt of a copy of this order.

(iii) If any explanation is received by the petitioners within a period of three weeks from the date of receipt of a copy of this order, the respondents shall consider and pass orders in accordance with law, as expeditiously as possible, preferably, within a period of six weeks thereafter.

(iv) Till final order is passed under Section 84(2) of the Tamil Nadu Housing Board Act, the respondent-Board shall not take any coercive action against the petitioners.

7. With the above observations, all the Writ Petitions are disposed of. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

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To

- 1.The Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Development Department,
Secretariat, Fort St. George,
Chennai - 600 009.
 - 2.The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.
 - 3.The Chief Revenue Officer,
Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.
 - 4.The Executive Engineer,
K.K.Nagar Division,
Tamil Nadu Housing Board,
Ashok Nagar Shopping Complex,
Ashok Nagar, Chennai - 600 083.
 - 5.The Superintending Engineer,
Chennai Circle,
Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.
- +1 CC to Govt. Pleader sr 20498 & 21779.
+1 CC to Mr.B.Vivekavannan, Advocate sr 20849
+12 Ccs to Mrs.A.L. Gandhimathi, Advocate sr 21218.

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6085, 6086, 6088, 6090, 6092 of 2019 &
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सत्यमेव जयते

PA(CO)
SP(23/04/2019)

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