

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2019

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.A.No.1666 of 2019
and
C.M.P.No.11280 of 2019

- 1.P.Navaneetham, W/o.Late.T.Paramasivam
- 2.P.Balamurugan, S/o.Late.T.Paramasivam
- 3.P.Hariharan, S/o.Late.T.Paramasivam
- 4.P.Kannan, S/o.Late.T.Paramasivam
- 5.P.Narayanaswami, S/o.Late.T.Paramasivam
- 6.P.Sasikumar, S/o.Late.T.Paramasivam

All are residing at Old No.19,
New No.73,1st Avenue, Ashok Nagar,
Chennai 600 083.

... Appellants/ Petitioners

Vs

1.The Secretary to Government
Government of Tamil Nadu, Industries Department,
Fort St. George, Chennai 600 009.

2.The Special Tahsildar (TACIT)
SIPCOT TACIT DIVISION,
Orgadam Alagu - 8,
No.1, Sivashanmugam Road,
Tambaram West, Chennai 45.

3.The Special Tahsildar,
Land Acquisition, Sriperumbudur Taluk,
Sriperumbudur 602 105.

4.State Industries Promotion Corporation of Tamil Nadu
(A Government of Tamil Nadu undertaking)
Rep. by its Managing Director,
No.19-A, Rukmani Lakshmipathy Road,
Post Box No.7223, Egmore, Chennai 108.

5.Town and Country Planning,
Rep. by its Director Mr.N.Ramanathan,
No.801, Anna Salai, Chennai - 2.

6.Natarajan, President,
Vaipur Village Panchayat,
Sriperumbudur, Kancheepuram District.

7.Baskar

8.S.Jayagandan

9.Murali ...Respondents/ Respondents

Respondents 7 to 9 residing at
No.1/36, Ragala Amman Koil Street,
Vaipur, Muthu Post, Kancheepuram District.

PRAYER:- Writ Appeal filed against the order passed by
this Court in W.P.No.6444 of 2011 dated 31.01.2019.

Prayer in W.P.No.6444 of 2011:- To issue a writ of
mandamus directing the respondents to reconvey the properties
measuring an extent 1 acre 15 cents comprised in S.No.38/1 and
0.15 cents S.No.81/9 of punja lands situate in No.182 vaipur
village Sriperumbudur tk Kancheepuram Dt. to the petitioners
herein after receiving back the compensation amount by
considering the representation dated 04.09.2009 under section 48
(b) of the Land Acquisition (Tamil Nadu Amendment) Act.

For Appellants : Mr.D.Rajagopal

For Respondents: Mr.M.Elumalai (R1 to R6)
Government Advocate

J U D G M E N T

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

The appeal has been preferred by the petitioner/the then
land owner against the dismissal of the Writ Petition filed by
him for re-conveying the property under Section 48(B) of the
Land Acquisition (Tamil Nadu Amendment) Act as the acquired land
has not been used for the purpose for which it was acquired.

2.Heard Mr.D.Rajagopal, learned counsel appearing for the
appellant and Mr.M.Elumalai, learned Government Advocate
appearing for R1 to R6.

3.The facts of the case (as could be culled out from paragraph No.4 of the order dated 31.01.2019 in W.P.No.6444 of 2011) are as follows:-

"4.According to the respondents as stated in the counter affidavit, an extent of 0.41.0 hectares in S.No.38/1 and 0.06.0 hectares in S.No.81/9 of Vaipur "A" village of Sriperumbudur Taluk, Kancheepuram District belonging to late.Thiru.Pramasivam H/o.Tmt.Navaneetham (Writ Petitioner herein) was acquired under Award No.1/2001 dated 15.05.2001. The draft notification under Section 4(1) of the Land Acquisition Act, 1894 for an extent of 7.14.0 hectares covered in Block-2 of Vaipur "A" village in which the subject lands are also covered, was approved by the Government in G.O.Ms.No.35, Industries (MII) Departments. dated 19.1.1999 and published an Extraordinary issue No.54, in part II Section 2 of the Tamil Nadu Government Gazette dated 22.1.1999 at pages 12 to 15. The said 4(1) Notification has also been published in NEWS papers "Malaimalar" dated 04.03.1999 at page no.5 and "Kathiravan" dated 4.3.1999 at page no.11. The substance of the said notification has also been published in village locality of Vaipur "A" village on 10.3.1999. As the lands were notified for acquisition invoking the urgency provision of Sec.17 (1) of the Land Acquisition Act, the enquiry under Section 5-A has been dispensed with. The Declaration under Section 6 of the Act has been proved by the Government in G.O.Ms.No.393, Industries (MII) Department dated 19.05.1999 and published in the Extraordinary Issue No.396 in Part II Section 2 of the Tamil Nadu Government Gazette dated 19.05.1999 at pages 11 to 13. The said Declaration under Section 6 of the Act, has also been published in News papers "Madurai Mani" dated 3.6.1999 and "Malai Murasu" dated 3.6.1999. The substance of the said declaration has also been published in the Vaipur "A" Village (locality) on 10.06.1999. An extent of 0.05.5 hectares in S.No.38 (since sub-divided as 38/2) has not been acquired as this is used by the villages as Panchayat road."

From the above, it is clear that the property was acquired by issuance of 4(1) notification on 19.05.1999 and after award was passed fixing the compensation on 05.01.2001, finally the lands were handed over on 20.08.2001. Once the proceedings have been initiated lawfully and possession has been taken as early as on 20.08.2001 and the award amount has also been received by the claimant, the claimant is totally a stranger to the

property. Taking advantage of the availability of Section 48(B) of the Land Acquisition (Tamil Nadu Amendment) Act, the appellant again approached this Court stating that the property is under the occupation of encroachers and the land was not used for the purpose for which it was acquired. The learned single Judge after going through the materials placed before him rightly dismissed the Writ Petition.

4. Even though it is found that the encroachers are in occupation of the acquired property, it is not the concern of the appellant but for the State Government to take appropriate steps to evict the encroachers from the acquired land, which Mr.M.Elumalai, learned Government Advocate would submit that has already been initiated.

5. Section 48(B) of the Land Acquisition (Tamil Nadu Amendment) Act is an exception and it is only available in the State of Tamil Nadu and no other part has got such a provision. It is stated by the Hon'ble Supreme Court in plenty of cases that once the possession of the property is taken and the amount is also paid or deposited, the land owner cannot insist upon re-conveyance of the property. It is for the Government to take a decision whether to make use of it, as the Government has already become the owner of the property.

6. Mr.D.Rajagopal, learned counsel for the appellant submitted that the appellant already filed LAOP.No.865 of 2008 and the same is pending before the Sub Court, Kancheepuram. Therefore, there could be a direction to the Sub Court to dispose of the matter at the earliest.

7. Considering the reasonable request made by the learned counsel for the appellant, the Writ Appeal is dismissed with a direction to the trial Court to dispose of LAOP.No.865 of 2008 within a period of six (6) months from the date of receipt of a copy of this order. No costs.

sai

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Subordinate Judge,
Subordinate Court,
Kancheepuram.

2.The Secretary to Government
Government of Tamil Nadu, Industries Department,
Fort St. George, Chennai 600 009.

3.The Special Tahsildar (TACIT)
SIPCOT TACIT DIVISION,
Orgadam Alagu - 8,
No.1, Sivashanmugam Road,
Tambaram West, Chennai 45.

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Post Box No.7223, Egmore, Chennai 108.

6.The Director
Mr.N.Ramanathan,
Town and Country Planning,
No.801, Anna Salai, Chennai - 2.

+1cc to Mr.D.Rajagopal, Advocate, SR.No.44641
+1cc to the Govt.Pleader, Vide Sr.No.45401

W.A.No.1666 of 2019

Kak(19/07/2019)

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