

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2019

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No.31790 of 2018
and
WMP.No.37023 of 2018

Sadagopan

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary,
Housing and Urban Development Department,
Fort St. George,
Chennai - 9.

2.The Managing Director,
Tamil Nadu Housing Board,
Nandanam,
Chennai - 9.

3.The Executive Engineer
and Administrative Officer,
Besant Nagar Division,
Tamil Nadu Housing Board Unit,
No.48, Dr. Muthulakshmi Road,
Adyar - 600 020.

4.The Specail Tashildar,
Land Acquisition Unit - V,
Tamil Nadu Housing Board Schemes,
Arignar Anna Shopping Complex,
7th Avenue,
Thirumangalam,
Chennai - 600 101.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue WRIT OF DECLARATION, declaring that the land acquisition proceedings initiated under the Land Acquisition Act, 1894, with respect to the lands comprised in Survey No.440/2A1 in Sholinganallur Village and Taluk, Kancheepuram District, measuring an extent of 2692.30 Sq.ft belonging to the petitioner has lapsed in view of Section 24(2)

of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

For Petitioner : Mr.K.V.Babu

For R1, R3 & R4: Mr.M.Elumalai,
Government Advocate

For R2 : Mr.M.Baskar for TNHB

O R D E R

The petitioner has filed the Writ Petition praying to issue a WRIT OF DECLARATION, declaring that the land acquisition proceedings initiated under the Land Acquisition Act, 1894, with respect to the lands comprised in Survey No.440/2A1 in Sholinganallur Village and Taluk, Kancheepuram District, measuring an extent of 2692.30 Sq.ft belonging to the petitioner has lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2.The learned counsel for the petitioner submitted that notice has been issued under Section 84(2) of the Tamil Nadu Housing Board Act by the third respondent on 12.07.2018 stating that the petitioner has encroached the property and he has to remove the encroachment by 15 days, failing which the entire land will be evicted. The petitioner had sent a detailed reply on 27.07.2018 to the aforesaid notice. He further submitted that though the award was passed in respect of the subject property, the fact remains that the fourth respondent did not take possession from the petitioner, in view of the fact that the respondents did not implement any scheme in the area till date. The subject property is still in the possession of the petitioner and no compensation has been paid to him in respect of the proceedings initiated under the old Act i.e. the Right to Fair Compensation and Transparency in Land Acquisition. Hence, the petitioner is entitled to seek a declaration that the entire Land Acquisition Proceedings have been lapsed in view of the Section 24 (2) of the new Act i.e., Rehabilitation and Settlement Act 2013.

3.The learned counsel appearing for the respondents would submit that notice has been served to the petitioner under Section 84(2) of the Tamil Nadu Housing Board Act treating the petitioner has encroacher. The petitioner also made a reply and the reply is still pending. He further submitted that the petitioner's reply shall be considered by the Board on merits and in accordance with law.

4.By considering the above said submissions, this Court is inclined to direct the third respondent to consider the petitioner's reply dated 27.07.2018 and pass orders on merits and in accordance with law as expeditiously as possible within a period of twelve weeks from the date of receipt of a copy of this order. Till such time, the respondents shall not take any coercive action against the petitioner pursuant to the impugned notice.

5.With the above directions this Writ Petition stands disposed of. However there shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The State of Tamil Nadu,
Rep. by its Secretary,
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Chennai - 600 101.

+1 cc to M/s.K.V.Babu, Advocate Sr.No.36730
+1 cc to Mr.M.Baskar, Advocate Sr.No.37883
+1 cc to The Government Pleader, Sr.No.36327

W.P. No.31790 of 2018

AK (CO)
CSL/29.05.2019



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