



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2020

CORAM:

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

W.P.NOS.6204, 6205 AND 7158 OF 2012

AND

M.P.NOS.1, 1 AND 2 OF 2012

G.Srinivasan

...Petitioner in W.P.No.6204 of 2012

M/s.Nivasan Homes Pvt Ltd,
Rep. by its Managing Director,
B.Sekar, Having office at 14/2 & 4,
Opp. Tiruppur Textiles,
Peelamedu, Coimbatore - 641 001.

...Petitioner in W.P.No.6205 of 2012

R.Pannerselvam,
R.Kulandaivelu,
R.Marudhachalam
Rep.by their power agent
S.P.Satheesh

...Petitioner in W.P.No.7158 of 2012

vs.

1. The District Collector,
Coimbatore District.
2. The Tahsildhar,
Coimbatore North Taluk,
Coimbatore District.
3. The Special Tahsildar (LA),
Housing Schemes,
Coimbatore District.
4. The Tamil Nadu Housing Board,
Rep. by its Executive Engineer,
Cum Administrative Officer,
Housing Unit, Tatabad,
Coimbatore,
Coimbatore District.

...Respondents in all Wps.



Prayer in W.P.No.6204 of 2012:

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of a writ of certiorarified mandamus to call for the records relating to the proceedings of the first respondent in Na.Ka.1620/2011/A2 dated 19.10.2011, and the consequential proceedings of the 2nd respondent in Na.Ka.No.15044/2011/A1 dated 21.10.2011, quash the same in so far as it relates to the petitioner's land admeasuring 1.82 acres, 0.29 acres and 0.03 acres comprised in Survey Nos.135/1, 134/1A, and 135/2 respectively in Saravanapatty Village, Coimbatore North Taluk, Coimbatore District and direct the 2nd respondent to restore the patta in the name of the petitioner with respect to the petitioner's land.

Prayer in W.P.No.6205 of 2012:

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of a writ of certiorarified mandamus to call for the records relating to the proceedings of the first respondent in Na.Ka.1620/2011/A2 dated 19.10.2011, and the consequential proceedings of the 2nd respondent in Na.Ka.No.15044/2011/A1 dated 21.10.2011, quash the same in so far as it relates to the petitioner's land admeasuring 1.57 acres, 1.28 acres 0.25 acres, and 0.54 acres comprised in Survey Nos.134/1B, 1C, 135/3, 135/4 respectively situated at Saravanapatty Village, Coimbatore North Taluk, Coimbatore District and direct the 2nd respondent to restore the patta in the name of the petitioner with respect to the petitioner's land.

Prayer in W.P.No.7158 of 2012:

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of a writ of certiorarified mandamus to call for the records relating to the proceedings of the first respondent in Na.Ka.1620/2011/A2 dated 19.10.2011, and the consequential proceedings of the 2nd respondent in Na.Ka.No.15044/2011/A1 dated 21.10.2011, quash the same in so far as it relates to the petitioner's land of an extent of 0.57 acres comprised in Survey Nos.134/1A, 1B, 1C, 134/3, 135/1,3,4,5 situated at Saravanapatty Village, Coimbatore North Taluk, Coimbatore District and direct the 2nd respondent to restore the patta in the name of the petitioner with respect to the petitioner's land.

For Petitioner in all WPs : Mr.N.Sridhar,
for Mr.K.S.Kathik Rajan

For Respondents 1 to 3
in all WPs : Mrs.K.Bhuvaneswari,
Additional Government Pleader

For Respondent 4
in all W.Ps. : Dr.R.Gowri



COMMON ORDER

These writ petitions all arise out of the land acquisition at Saravanampatty village, Coimbatore Taluk, Coimbatore District under Ganapathy phase-II developed by the Tamil Nadu Housing Board. W.P.No.7158 of 2012 has been filed by the original owner, R.Pannerselvam, who was earlier owning a large extent of land at Saravanampatty village and W.P.Nos.6204 & 6205 of 2012 have been filed by the subsequent purchasers of portions of land from R.Pannerselvam namely, G.Srinivasan and M/s.Nivasan Homes Pvt Ltd. All of them have challenged the proceedings of the first respondent all dated 19.10.2011 deleting the name of the respective petitioners from the revenue records in view of the acquisition of the subject lands which has attained finality by the order of the Hon'ble Supreme Court dated 26.11.2001 in SLP.Nos.19434 to 19436 of 2001.

2. Heard Mr.N.Sridhar, learned counsel for the petitioners, Mrs.K.Bhuvaneswari, learned Additional Government Pleader for the respondents 1 to 3, and Dr.R.Gowri, learned standing counsel for the fourth respondent.

3. The learned counsel for the petitioners submitted that insofar as the petitioners in W.P.Nos.6204 and 6205 of 2012 are concerned, they are subsequent purchasers from the petitioner in W.P.No.7158 of 2012. According to him, earlier the petitioner in W.P.No.7158 of 2012 has challenged the 4(1) notification issued by the Government under the repealed Land Acquisition Act, 1894 in W.P.No.4625 of 1994 which came to be dismissed on 03.11.2000 by a learned Single Judge of this Court. Aggrieved by the same, the petitioner in W.P.No.7158 of 2012 preferred a writ appeal W.A.No.1102 of 2001 which also came to be dismissed by a Division Bench of this Court on 02.07.2001. Aggrieved by the dismissal of W.A.No.1102 of 2001, SLPs were filed before the Hon'ble Supreme Court in SLP.Nos.19434 to 19436 of 2001 which also came to be dismissed on 26.11.2001. Thereafter, the petitioner in W.P.No.7158 of 2012 challenged the entire acquisition proceedings by filing another writ petition W.P.No.5210 of 2008 which came to be allowed on 12.06.2009 and the land acquisition proceedings were quashed. According to him, subsequent to the order dated 12.06.2009 passed by this Court in W.P.No.5210 of 2008, the petitioners in W.P.Nos.6204 and 6205 of 2012 purchased separate portions of property from the petitioner in W.P.No.7158 of 2012 who was the original owner of the large extent of the land. Further, he would submit that the Tamil Nadu Housing Board preferred a writ appeal W.A.No.1022 of 2016, aggrieved by the order dated 12.06.2009 passed in W.P.No.5210 of 2008 which came to be allowed in favour of the Tamil Nadu Housing Board by order of the Division Bench of this Court dated 11.12.2017.



4. According to the learned counsel for the petitioners, the respective petitioners in W.P.Nos.6204 and 6205 of 2012 purchased the property during the interregnum period between 12.06.2009, being the date of order passed in W.P.No.5210 of 2008 quashing the land acquisition proceedings and the date of order passed in the W.A.No.1022 of 2016 reversing the order passed in W.P.No.5210 of 2008 and hence, according to him, the respective petitioners are bonafide purchasers who have not been put on notice about the land acquisition as they are not parties to the writ appeal W.A.No.1022 of 2016.

5. According to the learned counsel for the petitioners, the impugned order dated 19.10.2011 passed by the first respondent deleting the petitioners name from the patta is arbitrary, unconstitutional and violates the principles of natural justice. According to him, the first respondent has exceeded his jurisdiction in deleting the name of the petitioners from the patta.

6. Per contra, the learned standing counsel for the fourth respondent submits that challenge to the acquisition proceedings has attained finality, since the challenge to 4(1) notification as well as the challenge to the entire land acquisition proceedings have all attained finality by orders of the Hon'ble Supreme Court dated 26.11.2001 passed in SLP.Nos.19434 to 19436 of 2001 as well as by the orders of the Division Bench of this Court dated 11.12.2017 passed in W.A.No.1022 of 2016.

7. According to the learned standing counsel for the fourth respondent, the petitioners in W.P.Nos.6204 and 6205 of 2012 do not have any legs to stand being subsequent purchasers as they do not have any locus standi to challenge the land acquisition proceedings.

8. The learned standing counsel for the fourth respondent drew the attention of this Court to a judgment of the Hon'ble Supreme Court in the case of Shiv kumar and Anr. vs. Union of India & Ors. passed in Civil appeal No.8003 of 2001 dated 14.10.2019 and submitted that subsequent purchasers do not have any locus standi to challenge the land acquisition proceedings.

9. The learned standing counsel for the fourth respondent also drew the attention of this Court to the latest Division Bench judgment of this Court dated 10.12.2019 in the case of Tamil Nadu Housing Board rep. by its Chairman vs. A. Babu. and Others passed in a batch of writ appeals namely, W.A.Nos.3499, 3504, 3505, 3506 and 3507 of 2019 and CMP Nos.22444, 22458, 22459, 22461, 22423, 22448, 22460, 22462, 22463 of 2019 and



submitted that insofar as the mutation of revenue records are concerned, subsequent purchasers do not have any locus standi to question the same.

Discussion:

10. These writ petitions are a clear abuse of process of law. This is the third round of litigation initiated by the petitioner in W.P.No.7158 of 2012 against the land acquisition proceedings in respect of the subject property which attained finality by the orders of the Hon'ble Supreme Court dated 26.11.2001 in SLP.Nos.19434 to 19436 of 2001. The writ petitioner in W.P.No.7158 of 2012 was owner of the large extent of lands at Saravanapatty Village, Coimbatore North Taluk, Coimbatore District which was the subject matter of the land acquisition. The land owner challenging the 4(1) notification issued under the Land Acquisition Act, 1894 came to be dismissed on 03.11.2000 by the orders of the learned Single Judge of this Court. Aggrieved by the same, the land owner preferred a writ appeal W.A.No.1102 of 2001 which also came to be dismissed by the Division Bench of this Court on 02.07.2001. Aggrieved by the same, SLPs. were preferred before the Hon'ble Supreme Court in SLP.Nos.19434 to 19436 of 2001 which also came to be dismissed on 26.11.2001. Therefore, the land acquisition in respect of the land owner was upheld by the Hon'ble Supreme Court and it attained finality. Thereafter, an award came to be passed fixing the compensation amount to be payable to the original land owner who is the petitioner in W.P.No.7158 of 2012.

11. Despite passing of the award fixing the compensation, the land owner once again challenged the land acquisition proceedings in W.P.No.5210 of 2008 which came to be allowed on 12.06.2009 and the land acquisition proceedings were quashed.

12. The Tamil Nadu Housing Board who is the beneficiary under the land acquisition was not made as a party respondent by the land owner in W.P.No.5210 of 2008, though they were a party in the earlier round of litigation which was upheld by the Hon'ble Supreme Court on 26.11.2001 in SLP.Nos.19434 to 19436 of 2001. Having made the Tamil Nadu Housing Board who is the beneficiary of the land acquisition in the earlier round of litigation as a party respondent, the land owner who is the petitioner in W.P.No.7158 of 2012 has deliberately chose not to make the Tamil Nadu Housing Board a party respondent in W.P.No.5210 of 2008 which came to be allowed on 12.06.2009 which resulted in the quashing of the land acquisition proceedings.

13. The petitioners in W.P.Nos.6204 and 6205 of 2012 are the alleged purchasers of the portions of property which is the subject matter of the land acquisition were purchased by the respective petitioners in the interregnum period between the

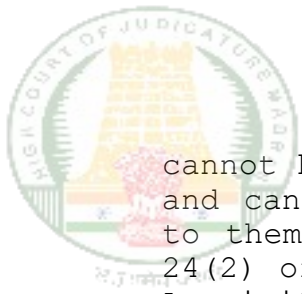


order dated 12.06.2009 passed in W.P.No.5210 of 2008 whereby the land acquisition proceedings were quashed and the order dated 11.12.2017 passed by the Division Bench of this Court in the writ appeal filed by the Tamil Nadu Housing Board, aggrieved by the order dated 12.06.2009 passed in W.P.No.5210 of 2008. It can be inferred that the petitioners in W.P.Nos.6204 and 6205 of 2012 are not bonafide purchasers as no bonafide purchaser will buy a property which is the subject matter of land acquisition and further the said land acquisition was also upheld by the Hon'ble Supreme Court in the earlier round of litigation on 26.11.2001 in SLP.Nos.19434 to 19436 of 2001. It is clear that the land owner has attempted unlawful methods to stall the land acquisition, even though the land acquisition has been confirmed by the Hon'ble Supreme Court. No prudent or bonafide purchaser will invest considerable amount of money in a land which is the subject matter of the land acquisition and which has been upheld by the Hon'ble Supreme Court.

14. It is also the case of the writ petitioners in W.P.Nos.6204 and 6205 of 2012 that they were not aware of the earlier round of litigation questioning the land acquisition which attained finality by the orders of the Hon'ble Supreme Court dated 26.11.2001 passed in SLP.Nos.19434 to 19436 of 2001. The writ appeal filed by the Tamil Nadu Housing Board W.A.No.1022 of 2016 as against the order dated 12.06.2009 passed in W.P.No.5210 of 2008 which came to be allowed by the Orders of the Division Bench of this Court dated 11.12.2017 whereby the order dated 12.06.2009 passed in W.P.No.5210 of 2008 was reversed and the land acquisition was restored.

15. The petitioner in W.P.No.7158 of 2012 who is the owner of the land which is the subject matter of land acquisition has been able to unlawfully stall the land acquisition by unscrupulous litigations and abuse of process of law. When the petitioner attempted to evade the land acquisition, he has also unlawfully executed the sale deeds in favour of the petitioners in W.P.Nos.6204 & 6205 of 2012, during the interregnum period between the order dated 12.06.2009 passed in W.P.No.5210 of 2008, whereby the land acquisition proceedings were quashed and 11.12.2017 being the date of the order passed by the Division Bench of this Court in W.A.No.1022 of 2016 whereby the appeal was allowed reversing the order dated 12.06.2009 passed by the learned Single Judge of this Court in W.P.No.5210 of 2008.

16. The Hon'ble Supreme Court in the case of Shiv Kumar & Another vs. Union of India & Others referred to supra has held that subsequent purchasers of a property which is the subject matter of land acquisition do not have any locus standi to challenge the land acquisition proceedings. It is also made clear in the aforesaid judgement that subsequent purchasers



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cannot be said to be land owners entitled to restoration of land and cannot be termed to be affected persons and it is not open to them to claim that the proceedings are lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The relevant portion of the said judgement is extracted hereunder:

"23. The intendment of Act of 2013 is to benefit farmers etc. Subsequent purchasers cannot be said to be landowners entitled to restoration of land and cannot be termed to be affected persons within the provisions of Act of 2013. It is not open to them to claim that the proceedings have lapsed under Section 24(2).

24. Apart from that the claims have been made on transactions based on the power of attorneys, agreements, etc.; as such also they are not entitled to any indulgence and cannot invoke provisions of Section 24(2) of the 2013 Act. The Court has considered the question of the validity of transactions in the form of power of attorney in Suraj Lamp and Industries Pvt. Ltd. through Director vs. State of Haryana & Another (2012) 1 SCC 656, and has held that no rights could be accrued on such transactions as this is not a legal mode of transfer."

17. The Division Bench of this Court in the case of The Tamil Nadu Housing Board vs. A. Babu and another passed in a batch of writ appeals namely, W.A.Nos. 3499, 3504, 3505, 3506 and 3507 of 2019 and CMP Nos. 22444, 22458, 22459, 22461, 22423, 22448, 22460, 22462, 22463 of 2019 referred to supra has also held that insofar as mutation of revenue records are concerned, involving the property which is the subject matter of land acquisition, the subsequent purchasers do not have any locus standi to challenge the mutation of revenue records. The relevant portion of the said judgement is extracted hereunder:

"4. We have considered the submissions raised. We find that once the land was acquired under the provisions of the Act, 1894, then it stood vested in the State free from all encumbrances and once the land stood vested in the State, any tenure holder or any person claiming rights whatsoever over the said land could not subject the same to any further transactions.

5. Learned counsel for the first respondent/writ petitioners urged that at the time of the execution of the sale deeds, the first respondent/writ petitioners were not aware of the



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acquisition proceedings. This argument is unacceptable for the simple reason that the land was acquired by resorting to the provisions of 1894 Act, in pursuance whereof the Gazette Notification was issued, which amounted to public notice extinguishing all rights free from all encumbrances. Ignorance of any such Notification cannot therefore be a ground to claim a title which otherwise the original tenure holders did not possess after being divested of the land and declaration of the Award.

6. We find that the claim as set forth by the first respondent/writ petitioners for issuance of a direction to the authorities for virtually declaration of the rights could not be a subject matter of the writ petitions in the aforesaid background, inasmuch as no obligation is case on the authorities for grant of any declaration or even adjudicating the same after the acquisition proceedings have attained finality. Learned counsel for the Housing Board is justified in submitted that the direction by the learned Single Judge deserves to be set aside."

18. In the above referred decision of the Division Bench of this Court, the facts are identical to the facts of the instant case. In that case also, the writ petitioners who purchased the property, claimed that they were not aware of the land acquisition proceedings and they got the sale deeds executed in their favour. The Division Bench of this court has held that the said argument is unacceptable for the simple reason that the land was acquired by resorting to the provisions of 1894 Act. In pursuance whereof, the Gazette Notification was issued which amounted to public notice extinguishing all rights free from all encumbrances. The Division Bench of this Court referred to supra has also made it clear that ignorance of such notification cannot therefore be a ground to claim a title which otherwise the original tenure holders did not possess after being divested of the land and declaration of the award.

19. In the case on hand also, neither the petitioner in W.P.No.7158 of 2012 who is the original owner of the land nor the respective petitioners in W.P.Nos.6204 and 6205 of 2012 who are the subsequent purchasers cannot plead the ignorance of the Notification issued by the Government Gazette in respect of the land acquisition.

20. Further as observed earlier, the land acquisition which attained finality by orders of the Hon'ble Supreme Court dated 26.11.2001 passed in S.L.P.Nos.19434 to 19436 of 2001 has once



again been challenged in the second round of litigation before this Court which amounts to clear abuse of process of court and law.

21. The petitioners in W.P.Nos.6205 and 6205 of 2012 who are the subsequent purchasers do not have any locus standi to challenge the land acquisition as admittedly they have allegedly purchased the property from the original landowner after the land acquisition. The mutation of revenue records is only a consequential relief. When the petitioners are not entitled to challenge the land acquisition proceedings as it has attained finality, the consequential relief sought for in these writ petitions also fail.

22. For the foregoing reasons, there is no merit in this writ petition as it is a clear abuse of process of law committed by the respective petitioners. Accordingly, these writ petitions are dismissed with costs of Rs.25,000/- in each of these writ petitions. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IV)

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Sub Assistant Registrar

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To

1. The District Collector, Coimbatore District.
2. The Tahsildhar,
Coimbatore North Taluk, Coimbatore District.
3. The Special Tahsildar (LA),
Housing Schemes, Coimbatore District.
4. The Tamil Nadu Housing Board,
Rep. by its Executive Engineer,
Cum Administrative Officer,
Housing Unit, Tatabad, Coimbatore,
Coimbatore District.

+3cc to Dr.R.Gowri, Advocate, S.R.No.7828 to 7830

W.P.Nos.6204, 6205 and 7158 of 2012

LN(CO)
CS/10/03/2020