

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.No. 19857 of 2019
and
WMP No.19404 of 2019

1 A.Sundar Raju
2 S. Suganthi

...Petitioners

.Vs.

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

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

3 The Special Thasildhar
(Land Acquisition L.A.)
Neighbourhood Scheme
Tamil Nadu Housing Board
Salem District-636 008

4 The Sub Registrar
Sub Registrar Office
District Collectorate
Salem - 636 001.

...Respondents

This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration declaring the acquisition of the lands in 2069 1/2 sq.ft, 1960 sq.ft, 1870 sq.ft at S.No. 81/2H at Ayyamperumampatti Village, Salem Taluk, Salem District as Lapsed under Sec. 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 on the ground that compensation amount was not paid and physical possession was not taken till date.

For Petitioners : M/s.P.Subramanian
For Respondents 1 & 3: Mr.D.Raja,
Additional Government Pleader
For Respondent-2 : Mr.Baskar
For Respondent-4 : Mr.T.M.Pappiah
Special Government Pleader

ORDER

This Writ Petition has been filed seeking for the issue of a Writ of declaration to declare that the acquisition proceedings has lapsed by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (herein after called as 'Act').

2. The learned counsel for the petitioners submitted that the property in question was a subject matter of acquisition, by virtue of a notification issued under Section 4(1) of 1891 Act on 23.06.1981. The learned counsel further submitted that the award was also passed on 30.12.1988. According to the petitioner, neither the award amount was paid nor the possession was taken and therefore, the acquisition itself lapsed by virtue of the Act.

3. Mr.D.Raja, learned Additional Government Pleader appearing on behalf of the respondents 1 & 3 submitted that the Writ Petition filed by the petitioners is not maintainable, since, admittedly, the petitioners are subsequent purchasers of the property, by virtue of the sale deed dated 12.05.2011. The learned counsel submitted that the Hon'ble Supreme Court in judgment in 'Shivkumar and Others V. Union Of India and Others' reported in 2019 [10] SCC 229 has categorically held that any sale deed that is executed after the issuance of 4(1) notification is null and void and non-est in the eye of law and a subsequent purchaser can never get any benefits under Section 24(2) of the Act.

4. This Court has carefully considered the submissions made on either side and the materials available on record.

5. This Court finds force in the submissions made by the learned Additional Government Pleader. The petitioners in the present case are admittedly subsequent purchasers by virtue of the registered sale deed dated 12.05.2011. This sale deed was executed much after the award proceedings and the petitioners

are claiming for the benefit under Section 24(2) of the Act. Insofar as the right of subsequent purchasers are concerned, the Hon'ble Supreme Court in 'Shivkumar and Others V. Union Of India and Others' referred supra, has categorically held that "A purchaser of a property, after the issuance of the Notification under Section 4[1] of the Land Acquisition Act, 1894, does not have any right to challenge the original acquisition or to claim any benefits after the coming into force of the 2013 Act". The Hon'ble Supreme Court has also held that "a transaction of sale that is effected after 4[1] Notification is void and the said sale transaction will not clothe the subsequent purchaser with any right whatsoever. Once a 4[1] Notification is issued, the property becomes incapable of being sold or transacted and the sale transaction is void ab initio and is a nullity and it does not confer any right or title over the subsequent purchaser of the property."

6. In view of the categorical pronouncement of the Hon'ble Supreme Court, the petitioners are not entitled to maintain this Writ Petition, since the right and title of the petitioners has been held to be non-est in the eye of law and therefore, the petitioners are not entitled to the relief as claimed in the present Writ Petition.

7. In the result, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

To

- 1 The Secretary
Department of Housing and Urban Development
State of Tamil Nadu
Fort St. George
Chennai - 600 009
- 2 The Chairman
Tamil Nadu Housing Board
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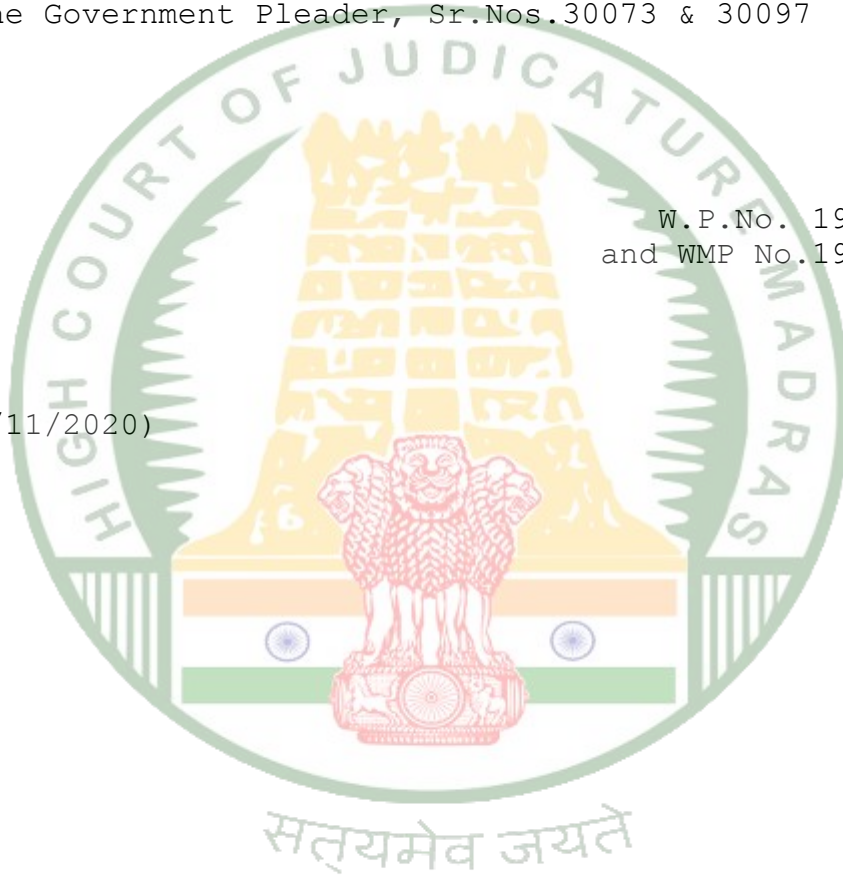
4 The Sub Registrar
Sub Registrar Office
District Collectorate
Salem - 636 001.

+1cc to Mr.P.Subramanian, Advocate, Sr.No.30123

+2cc to the Government Pleader, Sr.Nos.30073 & 30097

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