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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.09.2020

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THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

WP.No.11870/2020 & WMP.No.14588/2020

1.M.Mohan
2.Tmt.Mani

..Petitioners

Versus

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

2. The Tamil Nadu Housing Board
rep.by its Managing Director,
Anna Salai, Nandhanam,
Chennai 600 035.

3. The Special Tahsildar
[Land Acquisition]
Tamil Nadu Housing Board Schemes,
Tiruchengode.

4. The Executive Engineer & Administrative Officer,
Salem Housing Unit,
Tamil Nadu Housing Board,
Iyyanthiru Maligai, Salem 636008.

..Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of the 4th respondent relating to the impugned order in Lr.No.1/17097/82 dated 07.08.2020, quash the same and direct the respondents not to proceed further pursuant to the award proceedings in Award No.4/88-89 dated 27.05.1988 in Edappadi Village.

For Petitioners : Mr.V.Ravi for Mr.R.Gunaalan

For Respondents : Mr.E.Manoharan, Spl.GP for RR1 & 3
Mr.I.Sathish, Standing counsel for
TNHB/RR 2&4



ORDER

- (1) The subject matter of challenge in the present writ petition is the impugned order passed by the 4th respondent dated 07.08.2020 wherein the petitioners have been directed to vacate and hand over possession of the subject property within a period of fifteen days from the date of receipt of the order, failing which, the petitioners will be forcibly evicted from the property.
- (2) It is seen from records that the subject property situated at S.No.72/5A at Edappadi Village, Sankari Taluk, Salem District, was subjected to land acquisition along with a larger extent of lands situated in various survey numbers to a total extent of 49.97 acres. The 4[1] Notification was issued in the year 1984 and after the section 5[a] enquiry, the Section 6 Declaration was made in the year 1986. The Award enquiry was conducted and the Draft Award was published on 27.05.1988. It is seen that the original owner of the subject property was one Thandava Gounder. A careful reading of the Award published in the year 1988, reveals the fact that the Award amount was also deposited in the Sub Court, Sangagiri. It is also seen that there was a dispute with regard to the ownership of the property and therefore, the amount was deposited in accordance with Sections 30 and 31[2] of the Land Acquisition Act.
- (3) It is an admitted case of the petitioners that they are subsequent purchasers of the property.
- (4) The learned counsel appearing for the petitioners submitted that vast extent of lands were acquired for Salem Neighbourhood Housing Scheme. However, most of the lands were not utilised and in some cases, the proceedings were also dropped and the lands were relieved from the acquisition proceedings. The learned counsel submitted that the 4th respondent, all of a sudden, has issued the impugned order and as a result of the same, the right of the petitioners to possess and enjoy the property, is being deprived and the impugned passed by the 4th respondent is liable to be interfered by this Court.
- (5) Heard Mr.E.Manoharan, learned Special Government Pleader appearing on behalf of respondents 1 and 3 and Mr.I.Sathish, learned Standing counsel appearing on behalf of respondents 2 and 4 / Housing Board.
- (6) It is an admitted case that the petitioners are subsequent purchasers of the property from the legal heirs of late Thandava Gounder. Insofar as the right of subsequent purchasers are concerned, the Hon'ble Supreme Court of India,



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in the recent judgment, in Shivakumar and Others V. Union Of India and Others in Civil Appeal No.8003 of 2019, dated 14.10.2019, 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 held that a transaction of sale that is effected after 4[1] Notification is void and the said sale transaction will not cloth the subsequent purchaser with any right whatsoever. The Hon'ble Supreme Court of India has held that 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.

(7)The above judgment of the Hon'ble Supreme Court of India will squarely apply to the facts of the present case. The petitioners are admittedly, the subsequent purchasers and therefore, the petitioners will have no right to challenge the authority of the Housing Board which wants to take possession of the property to go ahead with their development of the property which was acquired as early as in the year 1984. This court does not find any illegality in the impugned order passed by the 4th respondent.

(8)In the result, this writ petition is dismissed and considering the fact that the petitioners have been in possession of the property for some time, the petitioners are given four weeks time to vacate and hand over possession of the property to the Housing board. If the petitioners fail to vacate and hand over possession of the property within the time stipulated by this Court, it is always open to the Housing Board to take possession of the property in line with the Impugned order dated 07.08.2020. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

AP

To

1.The Secretary to Government
State of Tamil Nadu, Housing and Urban Development
Fort St. George, Chennai 600 009.



2.The Managing Director,
Tamil Nadu Housing Board
Anna Salai, Nandhanam, Chennai 600 035.

3.The Special Tahsildar
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4.The Executive Engineer & Administrative Officer,
Salem Housing Unit,
Tamil Nadu Housing Board,
Iyyanthiru Maligai, Salem 636008.

+1cc to Mr.R.Gunaalan, Advocate, S.R.No.29347
+1cc to the Government Pleader, S.R.No.29095

WP.No.11870/2020

SR(CO)
KKV/06/11/2020