

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.09.2020

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

WP.No.11872/2020 & WMP.No.11586/2020

R.Kannan

..Petitioner

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 Petitioner : 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 petitioner has 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 petitioner 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 petitioner that he is the legal heir of late Thandava Gounder and he had succeeded to the property after the demise of Thandava Gounder. Neither Thandava Gounder nor the petitioner has challenged the acquisition proceedings at any stage and it has reached a finality. The petitioner has chosen to challenge the impugned order of the 4th respondent, which is only consequential in nature. The property which has been vested with the Housing Board is now sought to be put to use for the development of the original scheme.
- (4) The learned counsel appearing for the petitioner 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 petitioner 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) In the considered view of this Court, once the acquisition proceedings have become final and Award has also been passed way back in the year 1988, the petitioner has absolutely no right over the property and being in possession of the same, will virtually amount to a trespass and squatting upon the property belonging to the Housing Board. The petitioner has absolutely no legal rights to resist the Housing Board from taking possession of the property.

(7) In the result, this writ petition is dismissed and considering the fact that the petitioner has been in possession of the property for some time, the petitioner is given four weeks time to vacate and hand over possession of the property to the Housing board. If the petitioner fails 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
[Land Acquisition]
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Tiruchengode.

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.29348

+1cc to the Government Pleader, S.R.No.29095

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SR(CO)
KKV/06/11/2020



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