

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 15.10.2020

Delivered on: 28.10.2020

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

WP.No.14198 of 2020

and

WMP No.17671 of 2020

M.P.Sri Ravi Chandra Varma

..Petitioner

.vs.

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,
493, Anna Salai,
Nandanam, Chennai 600 035.
3. The Executive Engineer & Administrative Officer,
Tamil Nadu Housing Board (Salem Division),
Salem - 638 008.
4. The Special Tahsildar (LA),
Neighbourhood Scheme,
Tamil Nadu Housing Board Office Complex,
Salem-636 008.

.. Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration declaring the proceedings initiated by the respondent in G.O.Ms.No.499 Housing and Urban Development, dated 26.06.1984 and the consequential declaration under Section 6 of the Land Acquisition Act, 1892 in G.O.Ms.No.732 Housing and Urban Development Department, dated 23.05.1986, as lapsed in the light of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 by directing the 4th respondent to re convey the petitioners land in SF.No.72/2A and SF.No.72/3A situated at Edappadi Village, Edappadi Taluk, Salem District ad measuring to an extent of 1.41 acres.

For Petitioner : Mrs.B.Radhikaboopathi
For RR 1 & 4 : Mr.E.Manoharan
Special Government Pleader
For RR 2 & 3 : Mr.I.Sathish
Standing Counsel

ORDER

This Writ petition has been filed questioning the acquisition proceedings of the respondents and for a declaration that the acquisition proceedings itself as lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred as 'the Act').

2.The case of the petitioner is that his grandfather was the owner of the subject property and he was doing agriculture in the said property. After his demise, the petitioner and other legal heirs inherited the property and were continuing to do agriculture in the property. All of a sudden, the third and fourth respondents came into the property and asked the petitioner to remove all the belongings on the ground that the property has already been acquired and handed over to the Housing Board. According to the petitioner, no one was put on notice during the entire acquisition proceedings and neither the possession was taken nor any compensation was paid and therefore, the petitioner is entitled for a declaration under Section 24(2) of the Act.

3.The fourth respondent has filed a counter affidavit and the relevant portions are extracted hereunder:

"1. It is submitted that, the Tamil Nadu Housing Board, Salem Housing Unit, Salem has proposed for Housing Scheme in Edappady Village, Sankari Taluk, Salem District in various S.F.No's therein and among them an extent of 1.58 Acres in S.F.No.72/2A and an extent of 0.32 Acre in S.F.No.72/3A are included as part of the Acquisition proceedings. Before proceeding further it is submitted that S.F.No.72/3B land is not covered under land Acquisition Proceedings. For these lands, Notification under Section 4 (1) of the Land Acquisition Act, 1894 was approved in G.O.Ms.No.499 Housing & Urban

Development Department dated 26.06.1984 and it was published in the Tamil Nadu Government Gazette No.28(A) dated 18.07.1984. The enquiry under Section 5(A) of the Land Acquisition Act 1894 was conducted by the Land Acquisition Officer i.e., 4th Respondent herein on 06.08.1985.

2. It is submitted that, the Draft Declaration under Section 6 of the Land Acquisition Act, 1894 was approved in G.O.Ms.No.732 Housing & Urban Development Department dated 23.05.1986 and it was published in the Tamil Nadu Government Gazette No.262 dated 25.05.1986. After following all the procedures laid down, Award was passed vide Award No.4/88-89, dated 27.05.1988 for the lands including the land mentioned by the petitioner.

3. With regard to lands in S.F.No.72/2A it is seen from the perusal of the records that per the Award, the land owners are 1.A.Thandava Gounder, 2.C.Marimuthu, 3.R.Subramani, 4.A.Sengodan, 5.S.T.marimuthu, 6.Narayanan, 7.Govindammal, 8. Rajammal for S.F.No.72/2A. Thiru.Thandava Gounder, S/o.Angappa Gounder submitted a written statement stating that he is the owner of the land measuring 1.09 Acres out of 1.58 Acres in S.F.No.72/2 through partition. He has sold 0.60 acre out of 1.09 acres to the following persons by sale of 0.10. Acre each (1) Thiru.Marimuthu, (2) Subramaniam, (3) A.Sengoda (4) Tmt.Rajammal, (5) Govindammal, (6) Arukkani. He has refused to give individual statement at the time of award enquiry. Thiru. Narayanan, S/o.Palaniappa Gounder has given statement stating that he has got 0.06 ½ acre share by sale as per sale deed No.782, dated 03.06.81. He has produced a copy of document. Thiru.A.Sengoda Gounder, S/o.Arthanari Gounder has also presented a petition along with document copy stating that he has got 0.10 acre share of this land as per sale deed No.1390, dated 11.11.80 other pattadars and interested persons of this land did not appear for enquiry. Hence the further ownership of this land could not be decided. Therefore, the compensation amount of Rs.86,950.60/- was deposited in the Sub Court, Sankari on

16.06.1988, vide Land Acquisition officer's Letter No.555/87A, under Section 30 and 31(2) of the Land Acquisition Act, 1894. The writ land was taken over possession by the Land Acquisition Officer and the same has handed over to the Tamil Nadu Housing Board, Salem Housing Unit, Salem on 14.12.1989. The Tamil Nadu Housing Board, Salem, Housing Unit has prepared the layout and got approved by the Director of Town and Country Planning, Salem vide Ma.va/ma.No.86/2020 for an extent of 4.11 acres including petitioner's land

4. With regard to land in S.F.No.72/3A it is submitted that as per award 4/88-89 dt.27.05.1988 an extent of 0.32 Acres (0.13.0 Hectare) stands registered in the name of C.Marimuthu Gounder. No pattadar or interested persons appeared for enquiry. Hence the ownership of this land could not be decided. Therefore, the compensation amount of Rs.10,651.70/- deposited in the Sub Court, Sankari on 16.06.88 vide Land Acquisition Officer's Letter No.555/87A, under Section 30 and 31(2) of the land Acquisition Act, 1894. The writ land was taken over possession by the Land Acquisition Officer and the same was handed over to the Tamil Nadu Housing Board, Salem Housing Unit, Salem on 14.12.1989. The Tamil Nadu Housing Board, Salem Housing Unit, has prepared the layout and got approved by the DTCP, Salem vide Ma.va/ma (se).No.86/2020 for an extent of 4.11 acres including petitioner's land.

5. It is submitted that, the Award was passed vide Award No.4/88-89 on 27.05.1988 and writ land was taken over possession on 14.12.1989 by the Land Acquisition Officer and handed over it to the Tamil Nadu Housing Board, Salem Housing Unit, Salem on 14.12.1989 and the Award compensation amount was also deposited in the Sub Court, Sankari on 16.08.1988. Further it is submitted that necessary mutation in the Revenue Records was made in favour of Salem Housing Unit, Tamil Nadu Housing Board under Patta No.222, dated 21.09.1988. Therefore, Tamil Nadu Housing Board is the absolute owner of the writ land. It is submitted that the procedure prescribed under law has been followed and there is no discrepancies/infirmities with regard to the Acquisition proceedings herein. Also acquisition proceedings herein cannot be deemed as lapsed even as per the provisions of Section 24(2) of New Act 2013, especially taking into consideration the recent judgment of the Hon'ble Apex

Court in Indore Development Authority vs Manoharlal and ors -
2020 SCC Online SC 316.

4. Heard Mrs.R.Radhikaboopathi, learned counsel for petitioner and Mr.E.Manoharan, learned Special Government Pleader for respondents 1 and 4 and Mr.I.Satish, learned Standing Counsel for respondents 2 and 3.

5. It is seen from records that the entire acquisition proceedings were completed 25 years ago. The grandfather never challenged the proceedings and the subject property has also been handed over to the Housing Board. The Housing Board was in the process of getting the approval from DTCP, Salem and the approval was granted on 22.06.2020. Thereafter, the Housing Board started the process of forming the layout consisting of 72 Plots. At this point of time, the petitioner has chosen to question the acquisition proceedings.

6.It is seen that the award was passed in the year 1988 and it was also deposited before the Sub-Court Sankari. The patta was transferred in the name of Housing Board under Patta No.222 as early on 21.09.1988 and the possession was also handed over by the Land Acquisition Officer to the Housing Board on 14.12.1989. At this length of time, the petitioner has approached this Court and sought for the benefits under Section 24(2) of the Act. The Hon'ble Supreme Court in Indore Development Authority v. Manoharlal and Others, reported in 2020 SCC OnLine SC 316, has categorically held that both the conditions with regard to taking of possession and non-payment of compensation must be established to claim the benefit of Section 24(2) of the Act. In the present case, the property has vested with the Government under Section 16 of the 1894 Act and the possession was also handed over to the Housing Board as early as in the year 1989 itself and therefore, the petitioner is not entitled for the relief claimed in the present writ petition.

7. This Court does not find any merits in the present Writ Petition and the petitioner is not entitled for the relief sought for by him and accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CJ Conf.)

//True Copy//

Sub Assistant Registrar

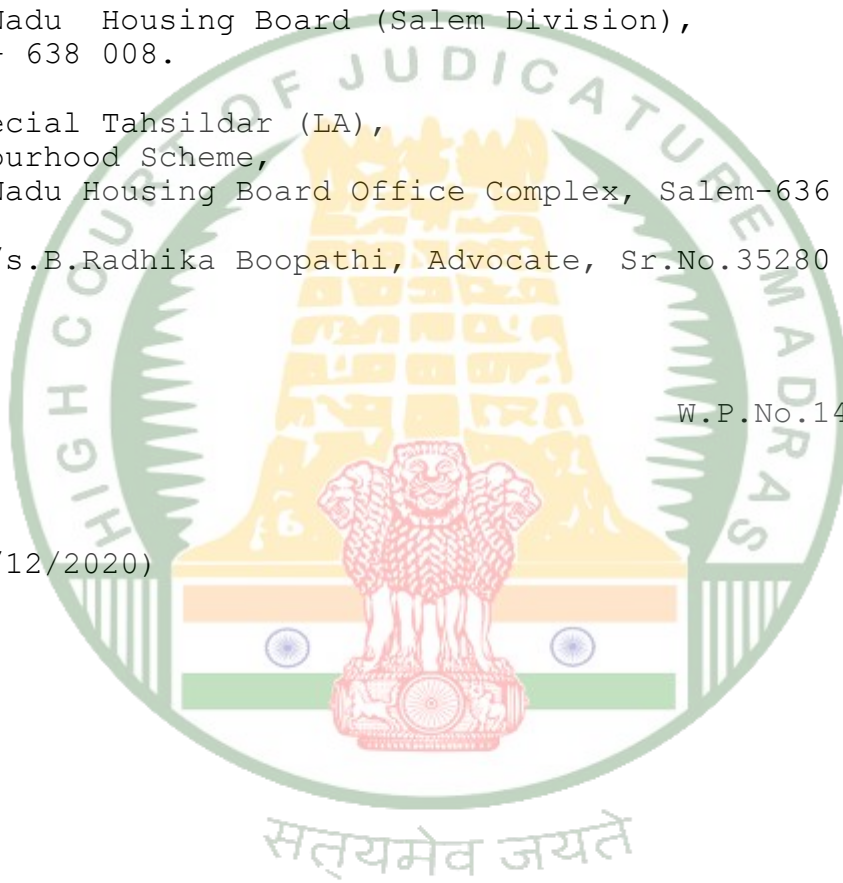
To

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+1cc to M/s.B.Radhika Boopathi, Advocate, Sr.No.35280

Order in
W.P.No.14198 of 2020

mp (co)
rr ii (01/12/2020)



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