

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.11.2020

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THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

WP.No.16194 of 2020
and W.M.P.Nos.20217 & 20218 of 2020

Mrs.Jeejababy Jayaramaiah Petitioner

Versus

- 1.The Managing Director,
The Tamil Nadu Housing Board,
Nandanam, Chennai 600 035.
- 2.The Executive Engineer-cum-
Administrative Officer,
Tamil Nadu Housing Board
Hosur Housing Division,
Bagalur Road, Hosur 635 109
Krishnagiri District. Respondents

Prayer:- Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus Calling for the records relating to the impugned Letter No. P2/ 5389 / 2005 dated 22.10.2020 issued by the Second Respondent quash the same, directing the second respondent to take any action in accordance with due process of law.

For Petitioner : Mr.P.Subba Reddy

For Respondents: Dr.R.Gowri for R1 & R2

ORDER

[Order of the Court was made by M.SATHYANARAYANAN,J.,]

By consent, the writ petition is taken up for final disposal and is disposed of by this order.

2.Dr.R.Gowri, learned Standing counsel accepts notice on behalf of respondents 1 and 2.

3.Facts leading to the present round of litigation have been narrated in detail and in extenso in detail in the judgment dated 23.01.2018 in W.A.No.1153 of 2016 and W.P.No.31107 of 2014, filed by the petitioner and for the sake of brevity, the entire facts are not reiterated again and only the relevant and necessary facts for the disposal of this Petition have been narrated.

4.The Government of Tamil Nadu, in pursuant to the request made by the Tamil Nadu Housing Board, acquired 93.21 acres of land in Chonnathur Village, which included 2.15 acres of land owned by the petitioner and the said acquisition was initiated under the provisions of the Tamil Nadu Land Acquisition Act, (Central Act 1 of 1894). The petitioner filed a Writ Petition in W.P.No.3391 of 1989, challenging Section 6 declaration dated 24.03.1987 on the ground that the enquiry was not conducted in accordance with Section 3A of the said Act and the Writ Petition came to be dismissed vide order dated 13.03.1998 and the Land Acquisition Officer took possession of the land in question and handed over to the Tamil Nadu Housing Board on 25.11.1985.

5.In the light of the stand taken by the petitioner denying the title, the Tamil Nadu Housing Board filed O.S.No.24 of 1997 on the file of the Subordinate Judge, Hosur, against kalyaniammal, the petitioner herein and three others namely Jayalakshmi, Jayaramaiyaa and Santhakumar, praying for declaration that the said lands belong to them and for permanent injunction restraining the defendant and their men and servants from interfering, not to trespass into the suit property and also to demolish the illegal construction put up by the defendants in the form of mandatory injunction. The Suit, after contest, came to be dismissed on 04.04.2003. The appeal preferred by the petitioner herein in A.S.No.35 of 2003 along with one Jayaramaiya, came to be dismissed by the Court of Additional District Judge, Hosur vide judgment dated 24.03.2007. The petitioner filed Second Appeal in S.A.No.450/2017 on the file of this Court and it was also dismissed on 09.07.2017.

6.The petitioner made a last effort by filing W.P.No.13955 of 2003, praying for declaration to declare that the acquisition proceedings initiated in G.O.Ms.No.788, Housing and Urban Development Department dated 17.06.1980 and the consequent direction in G.O.Ms.No.647 of the same Department dated 24.03.1983 as non est and void and the said writ petition came to be dismissed vide order dated 15.06.2015. Aggrieved by the same, WA.No.1153 of 2016 came to be filed. The petitioner also filed W.P.No.31107 of 2014, for a declaration to declare that the proceedings initiated by the respondents under the Land Acquisition Act, 1894 are deemed to be lapsed in view of Sections 24 and 25 of Act 30 of 2013, in respect of the land admeasuring an extent of 2.15 acres , 15 cents in S.F.No.31 of Hosur Village and Taluk, Krishnagiri District and the Division Bench of this Court

had also taken W.P.No.31107 of 2014 along with the said Writ Appeal and the Division Bench vide common judgment / order dated 23.01.2018, had dismissed the Writ Appeal as well as the Writ Petition.

7. Thereafter, the second respondent had sent a communication dated 22.10.2020 to the petitioner pointing out the earlier legal proceedings and calling upon the petitioner to remove the encroachment within 30 days from the date of receipt of the letter, failing which, further action would be initiated for removal of encroachment and challenging the legality of the same, the present Writ Petition is filed.

8. The primordial submission made by the learned counsel appearing for the petitioner that since the respondents are having the benefit of Civil Court decree and instead of resorting to summary eviction proceedings, ought to have filed an Execution Petition and he would further add that the Review Petition is also pending in respect of judgment settled by the Hon'ble Supreme Court of India reported in 2020 (6) SCC 304 [Indore Development Authority V. Manohar Lal] and prays for appropriate orders.

9. This Court has carefully considered the rival submissions and also perused the materials placed before it.

10. A perusal of the judgment in O.S.No.24 of 1997 passed by the Court of Subordinate Judge, Hosur, which came to be confirmed in A.S.No.35 of 2003 passed by the Court of Additional District Judge, Hosur would disclose that a categorical finding has been given that the petitioner who is arrayed as one of the respondents / defendants, is not in possession of the property. The endeavour made by the petitioner to declare the land acquisition proceedings as null and void, and non est, also ended in dismissal in the form of common judgment / order dated 23.01.2018 in W.A.No.1153 of 2016 and W.P.No.31107 of 2014. The petitioner has exhausted all the legal remedies and by filing this Writ Petition. A last effort is made by submitting that since he continues to remain in possession of the property, protection shall be offered till the respondents executes the Civil Court decree and in the considered opinion of this Court, the said submission lacks merit and substance for the reason that in the light of the categorical findings recorded in the Civil proceedings as well as the common judgment / order dated 23.01.2018 in W.A.No.1153 of 2016 and W.P.No.31107 of 2014.

11. Assuming for the sake of arguments, the Review Petition is pending in respect of the above cited decision rendered by the Hon'ble Supreme Court of India, the same would not come to the aid of the petitioner for the reason that the Civil and Writ Court decisions are intra party judgments and unless and until, the said judgments / findings are set aside, the petitioner is bound by the same. Though it is submitted by the petitioner that against the

common judgment dated 23.01.2018 in W.A.No.1153 of 2016 and W.P.No.31107 of 2014, a Review Petition is pending, unless the order is reviewed, the petitioner cannot have any right and mere pendency of the Review Petition will not prevent / prohibit the respondents from taking appropriate action.

12.In the light of the reasons assigned above, the Writ Petition deserves dismissal and accordingly, dismissed at the admission stage itself. No costs. Consequently connected miscellaneous petitions are closed.

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ASSISTANT REGISTRAR

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

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To

- 1.The Managing Director,
The Tamil Nadu Housing Board,
Nandanam, Chennai 600 035.
- 2.The Executive Engineer-cum-
Administrative Officer,
Tamil Nadu Housing Board
Hosur Housing Division,
Bagalur Road, Hosur 635 109
Krishnagiri District.

+1 CC to Mr.P.Subba Reddy, Advocate on payment of necessary charges SR.NO.36701

सत्यमेव जयते

W.P.No.16194 of 2020

SRA (CO)

TA-19/12/2020

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