

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.NO.18831 OF 2020

AND

WMP.NOS.23405 AND 23406 OF 2020

Jeejababy Jayaramaiah

...Petitioner

Vs.

1 The Secretary to Government
Housing and Urban Development Department
Government of Tamil Nadu, Fort St George
Chennai-09

2 The Managing Director
The Tamil Nadu Housing Board
Nandanam, Chennai.

3 The Special Tahsildar
(Land Acquisition)
Housing Scheme, Hosur Housing Division
Bagalur Road, Hosur,
Krishnagiri District.

4 The Executive Engineer Cum
Administrative Officer
Tamil Nadu Housing Board
Hosur Housing Division, Bagalur Road
Hosur, Krishnagiri District.

...Respondents

Prayer:-

This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records comprised in Section 6 declaration in G.O.Ms.No.647 dated 24.03.1983 of the 1st Respondent and published on 20.04.1983 which is got lapsed after expiry of two years from the date of the publication of the said declaration due to the failure of the Tamil Nadu Housing Board in not following sections 3(b) and 3(c) of Land Acquisition Act read with section 11-A of Land Acquisition Act and consequently, all the proceedings subsequent to the lapsed declaration are non-est in the eye of law in relation to the property of the

petitioner in Survey No.31, measuring to an extent of 1 Acre 54 cents at Door No.31, Chamundi Green House, Ganesh J.M.C. Gardens, 100 Feet Inner Ring Road, Hosur, quash the same and direct the respondents to close all acquisition proceedings against the petitioner in respect of the above property.

For Petitioner : Mr.P.Subbareddy

For Respondents : Mr.D.Raja
Additional Government Pleader
for R1 & R2

DR.R.Gowri
Standing Counsel for
Housing Board

ORDER

The present writ petition has been filed challenging the Section 6 declaration under the Land Acquisition Act, 1894 (hereinafter called as 'The Act') dated 24.03.1983 on the ground that it has lapsed by virtue of Section 11-A of the Act and consequently, to declare all the subsequent proceedings as non-existent in the eye of law.

2. It is seen from records that the land acquisition proceedings was initiated in the year 1983 and the award was passed in the year 1985. The lands were acquired and handed over to the Housing Board. The petitioner has been repeatedly knocking the doors of this Court from the year 1989 onwards and till now atleast 4 (four) writ petitions and 1 (one) writ appeal have been filed before this Court and in all these proceedings, the petitioner was unsuccessful.

3. The learned counsel for the petitioner submitted that the present writ petition has been filed only on the ground that the point raised in this writ petition was not raised earlier in any of the proceedings.

4. In the considered view of this Court, this is an absolutely vexatious litigation that has been engineered by the petitioner. The principles of res judicata will apply even in writ proceedings. Where an issue which ought to have been raised in the earlier proceedings, was not raised, that cannot give a fresh cause of action to file a fresh writ petition on the ground that was left out in the earlier proceedings. If this practice is allowed, there will be no end in filing writ petitions. The Hon'ble Supreme Court has categorically held that the concept of constructive res judicata will apply even in writ

proceedings under Article 226 of the Constitution of India. Useful reference can be made to the judgment of the Hon'ble Supreme Court in Shankara Co-op Housing Society Ltd. versus M.Prabhakar & Ors reported in 2011 (5) SCC 607.

5. There are absolutely no merits to entertain this writ petition and accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Mra

To

- 1 The Secretary to Government
Housing and Urban Development Department
Government of Tamil Nadu, Fort St George
Chennai-09
- 2 The Managing Director
The Tamil Nadu Housing Board
Nandanam, Chennai-35.
- 3 The Special Tahsildar
(Land Acquisition)
Housing Scheme, Hosur Housing Division
Bagalur Road, Hosur,
Krishnagiri District-635 109.
- 4 The Executive Engineer Cum
Administrative Officer
Tamil Nadu Housing Board
Hosur Housing Division, Bagalur Road
Hosur, Krishnagiri District.

+1cc to Mr.P.Subbareddy, Advocate, S.R.No.41116
+1cc to the Government Pleader, S.R.No.41308

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NMI (CO)
CS/19/01/2021