

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.02.2020

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No. 33855 of 2017
and WMP.Nos. 37540 of 2017
& 32200 of 2019

M.D. Venkatesan

...Petitioner

-vs-

1. The District Collector,
Krishnagiri District,
Krishnagiri.
2. The District Revenue Officer,
Krishnagiri.
3. The Special Tahsildar,
(Land Acquisition),
Hosur Housing Unit,
Hosur - 635 109.
4. The Chairman,
Tamil Nadu Housing Board,
Nandanam, Chennai - 35.

...Respondents

PRAYER : Petition under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the 2nd respondent to dispose the representation dated 17.08.2015 praying to cancel the patta stands in the name of TNHB and issue fresh patta in petitioner's name for the property comprised in survey No.644, 645/1, Hosur Village, Krishnagiri District, measuring 0.05.5 Hectares (0.14 Cents) and 0.26.5 hectare (0.65 ½ cents) in accordance with law within the time frame fixed by this Hon'ble Court.

For Petitioner : Mr. A.K.Sriram
for Ms. T.S. Kanmani

For Respondents: Ms.Dr.R.Gowri
Additional Govt. Pleader [R4]

Mr.M.D. Ilayaraja
Government Advocate [R1 to R3]

ORDER

Heard Mr.A.K.Sriram, learned counsel representing Ms.T.S.Kanmani, learned counsel on record for the petitioner, Mr.M.D. Ilayaraja, learned counsel for respondents 1 to 3 and Ms.Dr.R.Gowri, learned Additional Government Pleader for Respondent No.4.

2. With consent of learned counsel on either side, this writ petition itself is taken up for final disposal.

3. The petitioner seeks for a writ of mandamus to direct the 2nd respondent to dispose of his representation dated 17.08.2015, wherein the petitioner has sought for cancellation of patta standing in the name of the Tamil Nadu Housing Board and for a consequential direction to issue patta in the name of the petitioner in respect of the land in question.

4. The first and primordial question to be decided in the instant case is, whether the petitioner will be entitled to maintain the writ petition that too for the relief sought for.

5. After elaborately hearing Mr.A.K.Sriram, learned counsel for petitioner and Ms.Dr.R. Gowri, learned Additional Government Pleader for Housing Board, this Court is fully convinced that the petitioner cannot maintain this writ petition that too for the relief sought for. This writ petition is not maintainable for the following reasons:

(i) The respondent State Government initiated the Land Acquisition proceedings under the erstwhile Land Acquisition Act, 1984, (for brevity, 'the act') by issuing the notification under Section 4(1) of the Act dated 21.05.1981. The purpose of acquisition is for a scheme of the Tamil Nadu Housing Board. The petitioner's case is that the lands were specifically notified for the purpose of formation of approach road to the layout for the Housing Board. The declaration under Section 6 of the Act was issued on 18.08.1992 and the last mode of publication was made on 20.08.1992. According to the petitioner, he was let to believe that the award was passed in the case on 19.08.1994. The petitioner filed a writ petition before this Court in W.P.No.19709 of 2006 challenging the entire land acquisition proceedings including the award by mentioning the date of award as 19.08.1994. The writ petition was dismissed by order dated 30.09.2008. The petitioner was unsuccessful before the Hon'ble Division Bench as the writ appeal against the order in W.P.No.19709 of 2006 was dismissed by the Hon'ble Division Bench on 08.06.2010. The petitioner carried the matter to the Hon'ble Apex Court and the Special Leave Petition in SLP.No.29279 of 2010 was dismissed on 08.11.2010 by a speaking order.

(ii) Thereafter, the petitioner's second round of litigation was by filing a writ petition in W.P.No.1376 of 2012. The prayer in the said writ petition is to declare the draft award No.18 of 1994 dated 19.08.1994 has not been approved/signed by the Special Commissioner and Commissioner of Land Administration and therefore, no final award No.18 of 1994 was ever made or issued by the Special Tahsildar (Land Acquisition), Housing Scheme, Hosur, in terms of Section 11(A) of the Act and therefore, the entire proceedings stands lapsed as there is no award made within a period of two(2) years from the date of declaration under Section 6 of the Act vide G.O.Ms.No.587, dated 18.08.1992, insofar as the land owned by the petitioner is concerned. The said writ petition was allowed by order dated 16.12.2014. The operative portion of the order is in paragraph 15 in which, in sub-paragraph (v), the Court held that the petitioner is entitled to the benefit of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013) and held that the entire land acquisition proceedings are lapsed. However, as could be seen from the prayer sought for in the said writ petition viz., W.P.No. 1376 of 2012, the petitioner contended that the land acquisition proceedings had lapsed on account of the fact that the no award was in existence and no award was passed within a period of two (2) years. However, the Court held that the petitioner is entitled to the benefit of Act 30 of 2013.

6. The Tamil Nadu Housing Board filed a writ appeal against the said order in W.A.No.1676 of 2015. The Court noted that the writ petitioner filed the writ petition afresh on the ground that draft award was not signed by the Competent Authority and the entire acquisition proceedings stands lapsed. Apart from that the Hon'ble Division Bench also taken note of the various observation and directions issued by the Writ Court and held that those directions are not sustainable. Accordingly, the appeal filed by the Housing Board was allowed by a judgment dated 06.11.2017.

7. The petitioner has filed a Special Leave Petition before the Hon'ble Supreme Court in SLP (Civil) Diary No.8383 of 2019 and the Hon'ble Supreme Court by order dated 29.03.2019 dismissed the same stating that there is no reason to interfere with the impugned order passed by this Court.

8. Now the petitioner has come forwarded with this writ petition praying for a direction to consider his representation and cancel the patta granted to the Housing Board and issue patta in his name for the land in question. This writ petition cannot be entertained and if done, would amount to entertaining a frivolous case. In the earlier two rounds of litigation, the

petitioner canvassed the issue raised before this Court in a slightly different manner. Thus, the petitioner is re-litigating the same issue not once, but thrice, which is impermissible.

9. In the first round of litigation, the petitioner had challenged the entire land acquisition proceedings upto the stage of passing the award. Thus, all pleas are deemed to have been raised and decided. This is also applicable to the second round of litigation. After having failed in the two earlier attempts, the petitioner now seeks to reopen the issue by seeking for a different prayer, but raising the same point once again.

10. Thus for all the above reasons, this Court finds no ground to entertain the writ petition. Accordingly, the writ petition is dismissed. This Court is well justified in imposing cost on the petitioner, but considering the petitioner's age, this Court refrains from doing so and the respondent is at liberty to utilise the land and if there is any obstruction by the petitioner or by his nominees, adequate police force may be deployed to utilise the land by the Housing Board. No costs. Connected miscellaneous petitions are closed.

s/d-

Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

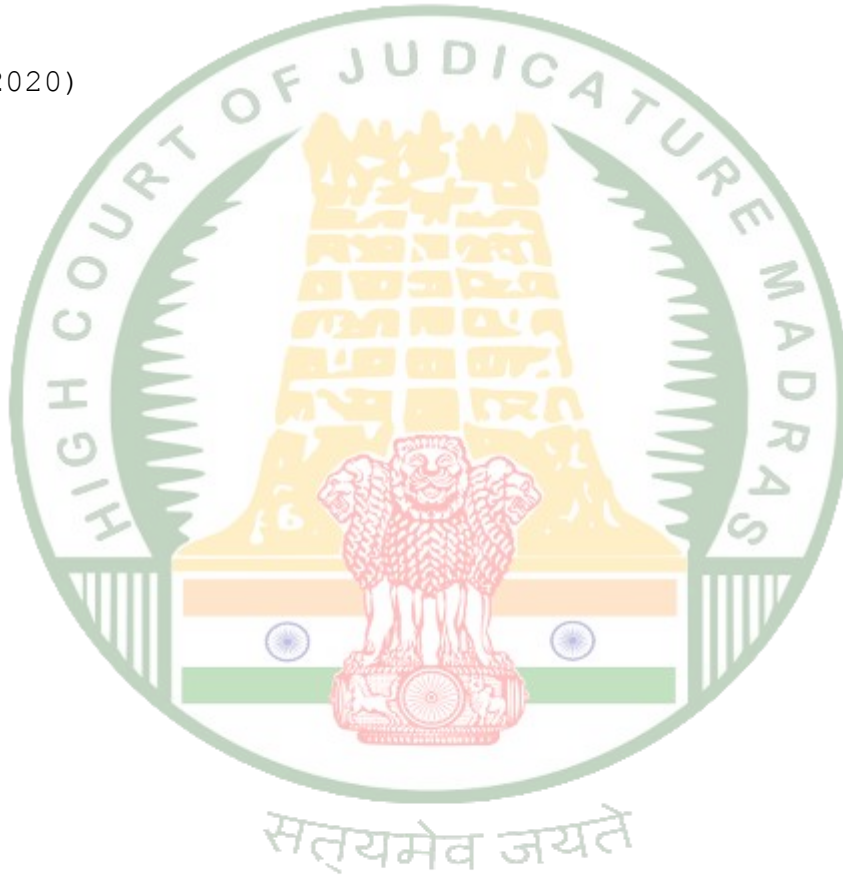
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To

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+2 CCS to Mr.T.S. Kanmani, Advocate sr 12210.
+1 CC to Dr.R. Gowri, Advocate sr 11621.
+1 CC to Govt. Pleader sr 11813.

W.P.No.33855 of 2017
and WMP.Nos. 37540 of 2017
& 32200 of 2019

KJ(CO)
SP(18/03/2020)



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