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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2020

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.26826 of 2017

1.A.K.Sankar Prasad
2.A.K.Muthuswamy
3.S.Krithika

...Petitioners

Vs.

1.State of Tamilnadu,
Rep.by its Secretary to Government,
Housing & Urban Development Department,
Fort St.George, Chennai - 600 009.

2.The Tamilnadu Housing Board,
Rep.by its Chairman / Managing Director,
231, Anna Salai,
Nandanam, Chennai - 600 035.

3.High Level Committee,
Rep.by its Chairman,
Tamilnadu Housing Board,
231, Anna Salai,
Nandanam, Chennai - 600 035.

...Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents to reconvey the land measuring Acre 1.53 cents in S.No.207/14A in Koyambedu Village to enable the petitioners.

For Petitioners : Mr.S.V.Jayaraman, Senior Counsel
for M/s.N.Dhanasekaran

For Respondents : Mr.M.Elumalai,
Government Advocate for R1

Mr.C.Emalias,
Additional Advocate General
assisted by Mr.M.Baskar for R2 & R3



O R D E R

This writ petition has been filed by three petitioners namely A.K.Sankar Prasad, A.K.Muthuswamy and S.Krithika. The petitioners 1 and 2 are sons of A.R.Krishnamurthy. They claimed that their grand mother Lalithambal owned a vast extent of land in Koyambedu Village. The third respondent claimed to be grand daughter of the Lalithambal. The petitioner did not dispute the facts that the Land Acquisition Act read with 17(4) by an award dated 01.11.1961 followed by a declaration under Section 6 of the Land Acquisition Act on 17.11.1965 thereafter, award enquiry was conducted under Section 11 and award was passed on 25.02.1967 on Award No.4 of 1967.

2. The case of the petitioners is that though they do not dispute the land acquisition proceedings and agree that it has attained finality, they would state that an extent of land in Survey No.207/14A is lying unused and therefore, they pray for a direction to the respondents to reconvey the said extent of land. The law on the subject has been well settled and no longer res-integra.

3. In the case of Rajasthan State Industrial Development and Investment Corporation vs. Subhash Sindhi Cooperative Housing Society reported in (2013) 5 SCC 427, the Hon'ble Supreme Court of India set aside the order passed by the High Court and held that there was no right to claim release of the lands, which were acquired even on the ground of discrimination. The petitioner cannot dispute the above legal principles but however, the Court has to consider as to what has been done with the subject lands and the answer is found in the counter affidavit filed by the District Revenue Officer (LA), the Tamil Nadu Housing Board Schemes, in which after narrating about the earlier writ petitions, it has been specifically stated that the Tamil Nadu Housing Board has obtained approval from the CMDA for construction of 112 flats for higher income group and the scheme is not been able to be fully implemented on account of continuous litigation.

4. Further in the counter affidavit, it has been stated that the Government examined the representation of the petitioners dated 14.07.2006, which is also rejected by proceedings dated 30.11.2006, on the ground that the above land is essentially required for the housing scheme and approval was obtained from the CMDA. Further, it has been pointed out that the petitioners have filed earlier writ petitions and were not successful. Further it is stated that the Deputy Superintendent of Police, Central Bureau of Investigation, Economic Offence Wing, Chennai, has informed that they are investigating the illegal ownership claimed by some other persons vide Communication dated



11.06.2009 has also been registered. Further from the counter affidavit, it is seen that the possession of the land was taken over by the Tamil Nadu Housing Board on 02.03.1967 and the respondents have rightly stated that the petitioners have no loco-standi either to challenge the land acquisition proceedings nor claim of reconveyance. Further the respondents would dispute the authenticity of the petitioner that they are the legal heirs of the Lalithambal. Further with regard to the house, it has been stated that the Tamil Nadu housing Board has already used and developed an extent of 8.61 acres out of 10.03 acres and the remaining 1.3 is kept for future development.

5. The learned Senior Counsel appearing for the petitioner submitted that their application for reconveyance was placed before before High Level Committee constituted by the respondent Board headed by retired Hon'ble Judge of this Court and the petitioner was also called to appear before the Committee. From the counter affidavit, it is seen that the High Level Committee examined the request of the petitioner seeking reconveyance of the land in S.No.207/14A and placed before the Board Meeting held on 03.08.2009 and the same has been deferred on account of various Court cases. In any event, any recommendation for reconveyance by the high level committee does not bind the Government. It has been categorically held that the entire lands are required for the purpose for which they were acquired and the petitioners present claim appears to be an attempt to reopen a settled issue, which is impermissible. Hence no relief can be granted as prayed for.

6. In the result, the writ petition fails and accordingly, stands dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Pns

To

1. The Secretary to Government,
Housing & Urban Development Department,
Fort St.George, Chennai - 600 009.



2. The Chairman / Managing Director
Tamilnadu Housing Board,
231, Anna Salai,
Nandanam, Chennai - 600 035.

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3. The Chairman,
High Level Committee,
Tamilnadu Housing Board,
231, Anna Salai,
Nandanam, Chennai - 600 035.

+2cc to Mr.N.Dhanasekaran, Advocate, S.R.No.22030

W.P.No.26826 of 2017

RN(06/07/2020)