



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2020

CORAM

WEB COPY

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. (MD)No. 5232 of 2012

S.S.Sundaresan

... Petitioner

Vs.

1.State of Tamil Nadu,
Rep by its Secretary to Government,
Housing and Urban Development Department,
Chennai - 600 009.

2.The Chairman,
Tamil Nadu Housing Board,
Nandanam, Chennai 600 035.

3.The Revenue Divisional Officer,
Collectorate, Madurai - 20.

... Respondents

Petition filed under Article 226 of the Constitution of India, for issue of Writ of Declaration, declaring that the notification under Section 4(1) of the Land Acquisition Act issued in G.O.Ms.No.516 Housing and Urban Development dated 16.03.1979 published in the Tamil Nadu Government Gazette dated 04.04.1979 on the file of the First Respondent had lapsed and is null and void and consequently forbear the Respondents or their men or subordinates from interfering with the title of the Petitioner and possession and enjoyment of his land in S.No.10/1 of an extent of 22.5 cents and S.No.12/3 of an extent of 93.5 cents in Madakulam Village, Madurai South Taluk, Madurai District except by due process of law by issuing a fresh notification under Section 4(1) of the Land Acquisition Act.

For Petitioner	:	Mr. D.Sadiq Raja
For Respondents 1 and 3	:	Mr. M.Rajarajan, Government Advocate.
For 2 nd Respondent	:	Mr. Mahaboob Athiff.



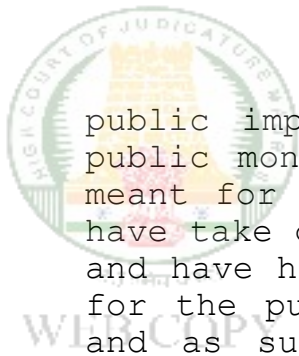
O R D E R

Heard Mr. D.Sadiq Raja, Learned Counsel for the Petitioner, Mr. M.Rajaraman, Learned Government Advocate for the First and Third Respondent and Mr. Mahaboob Athiff, Learned Counsel for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition has been filed challenging the Notification under Section 4(1) of the Land Acquisition Act issued in G.O.Ms.No.516, Housing and Urban Development dated 16.03.1979, published in the Tamil Nadu Government Gazette, dated 04.04.1979, by the First Respondent and to declare that the same had lapsed and is null and void and consequently, to forbear the Respondents or their men or subordinates from interfering with the title of the Petitioner and possession and enjoyment of his land in S.No.10/1 to an extent of 22.5 cents and S.No.12/3 to an extent of 93.5 cents in Madakulam Village, Madurai South Taluk, Madurai District except by due process of law by issuing a fresh Notification under Section 4 (1) of the Land Acquisition Act.

3. Learned Counsel for the Petitioner contented that by an order dated 29.08.2007 in W.P. No. 11436 of 2005, this Court in respect of a similarly placed person, whose land had been acquired in a connected proceeding in G.O. Ms. No. 517 Housing and Urban Development dated 04.04.1979 has declared the notification issued under Section 4(1) of the Land Acquisition Act, 1894, would have lapsed insofar as the land owned by that Petitioner was concerned. The aforesaid conclusion was arrived on the basis that in an earlier order dated 07.04.1983 in W.P. (MD) No.1735 of 1983, this Court had quashed the declaration under Section 6 of the Land Acquisition Act, 1894, relating to the same land acquisition proceedings, but no steps had been taken for 24 years thereafter despite clarification that it would not preclude the authorities from issuing any fresh notification. It is brought to notice that the same benefit had been extended to other similarly placed land owners by order dated 30.07.2009 in W.P. (MD) Nos. 12210 and 12227 of 2008 and by order dated 05.02.2020 in W.P. (MD) No. 539 of 2010.

4. *Per contra*, Learned Standing Counsel appearing for the Second Respondent refers to a subsequent decision of the Hon'ble Supreme Court of India in **Tamil Nadu Housing Board -vs- M. Meiyappan** [(2010) 14 SCC 309] holding that the High Court ought not to have entertained such Writ Petitions challenging the same land acquisition proceedings and should have dismissed the same at the threshold on delay and laches notwithstanding the relief having been granted to similarly placed persons in the earlier Writ Petitions filed by them. It has also been highlighted in that ruling that in land acquisition proceedings, the Court should be loathe to encourage slate litigation as the same might hinder projects of



public importance as the same not only involve enormous loss of public money but also causes undue delay in carrying out projects meant for general public good. It is asserted that the Respondents have take over possession of the land from the erstwhile land owners and have handed over to the Tamil Nadu Housing Board for using them for the purpose of the scheme by allotting to other beneficiaries and as such, the Petitioner cannot claim that the same benefit should be extended to him notwithstanding the delay and laches.

5. Having regard to the aforesaid rival submissions made, it is apparent that the various orders passed by this Court relied on by the Learned Counsel for the Petitioner, quashing the proceedings under Section 4(1) of the Land Acquisition Act in respect of the same land acquisition proceedings have been denuded of their status as binding precedent in view of that authoritative pronouncement of the Hon'ble Supreme Court of India in **Tamil Nadu Housing Board -vs- M. Meiyappan** [(2010) 14 SCC 309]. On a perusal of the affidavit filed by the Petitioner in support of the Writ Petition, it is found that there is no whisper, much less satisfactory explanation, for the inordinate delay and laches on the part of the Petitioner in challenging the acquisition proceedings. It is also noticed that the relief granted to the Petitioners in the earlier Writ Petition were in the nature of *in personem* and the same could not be extended to other similarly placed persons when they have approached the Court belatedly.

6. In view of the foregoing discussion, it is not possible to grant the relief sought by the Petitioner in the Writ Petition.

7. Accordingly, this Writ Petition is dismissed. No Costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

das/sj

To

1.The Secretary to Government,
Housing and Urban Development Department,
State of Tamil Nadu,
Chennai - 600 009.



2.The Chairman,
Tamil Nadu Housing Board,
Nandanam, Chennai 600 035.

3.The Revenue Divisional Officer,
Collectorate, Madurai - 20.

WEB COPY

+1 CC to M/s.SPL.GP (SR-11307[F] dated 12/03/2020)

+1 CC to M/s.M.MAHABOOB ATHIFF, Advocate (SR-11481[F] dated 13/03/2020)

+1 CC to M/s.T.C.S.THILLAINAYAGAM, Advocate (SR-11687[F] dated 13/03/2020)

W.P.(MD)No. 5232 of 2012
Dated : 11.03.2020

AP(01/06/2020) 4P 7C