



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.07.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.A. (MD)No.474 of 2020

and

C.M.P. (MD)No.3395 of 2020

WEB COPY

Muthiah

... Appellant/Writ Petitioner

Vs.

1. The Tamilnadu Housing Board,
Rep. by its Chairman,
Nandanam,
Chennai - 600 035.
2. State of Tamil Nadu,
Rep. by its Secretary,
Department of Housing and Urban Development Department,
Fort St. George,
Chennai - 600 009.
3. The Special Tahsildar (Land Acquisition),
Neighbourhood Scheme,
O/o. The Executive Engineer & Admin Officer,
Tamil Nadu Housing Board,
Maharaja Nagar,
Tirunelveli - 11.
4. The Supervising Engineer,
Tamilnadu Housing Board Office,
Madurai Range,
Ellis Nagar,
Madurai - 625 016.

...Respondents / Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, against the order of this Court made in W.P.(MD) No.6863 of 2020 dated 25.06.2020.

Prayer in WP(MD). 6863 of 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the entire record pertaining to the impugned Tender Notification in Se.Ma.Tho.



E/2060/Opanthapulli/2020 issued by the 4th respondent published in Dinakaran Tamil Daily Newspaper on 04.06.2020 and quash the same as illegal.

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For Appellant

: Mr.Anandha Kannan, Senior Counsel
for Mr.P.M.Vishnuvarthanan

For Respondents

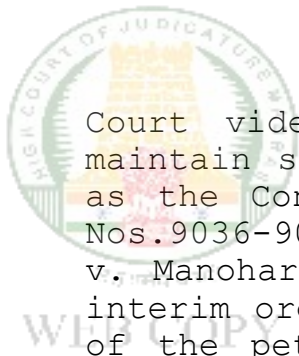
: Mr.K.Chellapandian
Additional Advocate General
Assisted by
Mr. Md. Athif
Standing Counsel

J U D G M E N T

(Judgment of the Court was delivered by **M.SATHYANARAYANAN, J.**)

The appellant claims to be the absolute owner of the patta land in Plot No.31, S.Nos.1026 and 1032 in Kulavanigarapuram Village, Palayamkottai Taluk, Tirunelveli District through a registered sale deed dated 04.02.1987, registered as document No.227/1987 on the file of the Sub Registrar, Melapalayam. The appellant would further submit that subsequent to the purchase, the Tamil Nadu Housing Board has issued notification under Land Acquisition proceedings in G.O.Ms.No.784 (Housing and Urban Development) Department dated 04.08.1989 and Section 4(1) notification under Land Acquisition Act also came to be issued on the same day by inclusion of various other survey numbers. The appellant's land also finds a mention therein. Subsequently, notification under Section 6 of the Land Acquisition Act came to be issued on 01.10.1990 and after consideration of various objections, the award came to be passed in Award No.1/2001-2002 dated 04.06.2001. The appellant would further aver that challenging the validity of the acquisition proceedings one Mr.K.S.Aiyadurai had filed W.P.No.13485 of 2001 and so also one Mohameed Beevi in W.P.No.13475 of 2001 and vide common order dated 13.07.2010, this Court allowed the Writ Petition and challenging the legality of the same Writ Appeals in W.A.No.924 of 2012 and 2330 of 2013 had been preferred by the Tamil Nadu Housing Board. Some of the land owners who includes the Petitioner filed W.P.No.6619, 7340, 12418 of 2013 and W.P.(MD) No.4712 of 2014. The Writ Petitions were tagged along with the Writ Appeals and the Division Bench of this Court vide common judgment dated 15.12.2017, had allowed the Writ Appeals preferred by the Tamil Nadu Housing Board and consequently, dismissed all the Writ Petitions filed by the land owners.

2.Mr.K.S.Aiyadurai also filed review application in R.A.No.66 of 2018 to review the said judgment and it was also dismissed on 12.04.2018. Mr.K.S.Aiyadurai aggrieved by the allowing of the Writ Appeal in W.A.No.924 of 2012 and dismissal of R.A.No.66 of 2018 preferred SLP (C) Nos.24784-24785 of 2018 and the Hon'ble Supreme



Court vide order dated 05.12.2018, directed both parties to maintain status-quo and directed the listing of the matter as soon as the Constitution Bench judgment is rendered in S.L.P. (Civil) Nos.9036-9038 of 2016 - Indore Development Authority & Others. Etc. v. Manoharlal & Others. Etc. and therefore, in terms of the said interim order status-quo have to be maintained by both parties. One of the petitioners in W.P.No.6619 of 2013 viz., Mr.G.Muthiah had filed W.P.(MD) No.6863 of 2020 praying for issuance of Certiorari to quash the tender notification issued by the fourth respondent viz., the Supervising Engineer, Tamilnadu Housing Board, Madurai Range, Ellis Nagar, Madurai - 625 016 primarily on the ground that the said notification also covers the lands of the writ petitioner and the said notification is bad for the reason that there is already an order to maintain status-quo passed by the Hon'ble Supreme Court. The Writ Petition has been entertained and the fourth respondent has filed a counter affidavit dated 24.06.2020 and in paragraph No.7, took the following stand:-

" 7.I respectfully state that, it is not only the land claimed by the petitioner but also other lands claimed by other applicants before the Hon'ble Supreme Court in S.L.P. (C) Diary No.12588 of 2019 and S.L.P. (C) Nos.24704 and 24705 of 2018 which would not be utilised pending the continuance of the interim order of status quo granted by the Supreme Court and the Board would await either disposal of the interim application or the very appeal. The total extent of land covered by the aforestated applications before the Supreme Court is to an extent of 6.61 Acres and in compliance with the order of the Supreme Court, status quo would be maintained in respect of the said lands. The details of the land subject matter of the Special Leave Petitions on the file of the Hon'ble Apex Court and in respect of which this respondent undertakes to maintain status quo pending the interim order granted by the supreme court is annexed herewith and shall be read as part and parcel of the present affidavit."

The fourth respondent has also filed an annexure along with the counter affidavit in respect of the land owners, wherein interim orders are in force and the names of the landowners are find place in the annexure. The learned Single Judge after extracting paragraph Nos.6 and 7 of the counter affidavit as well as the annexure on record finds that in view of the said undertaking given by the fourth respondent, which has been taken on file and on record, the official respondents are at liberty to proceed with the other lands which are not covered by the orders of the Hon'ble Supreme Court and also made it clear that as and when the Hon'ble Supreme Court passes orders in the matter relating to the petitioner and others who have filed Special Leave Petitions, the Respondents shall act in accordance with those orders and disposed of the said Writ Petition. The Writ Appeal has been filed challenging the legality of the said order.



3.Learned counsel for the petitioner has invited the attention of this Court to the tender notification and would submit that Serial Number 3 of the tender notification also includes the land of the petitioner and since it is a meagre extent, the official respondents can wait for the outcome of the Special Leave Petition filed by them in view of the Constitutional Bench Judgment in S.L.P. (C) Nos.9036-9038 of 2016. The apprehension expressed by the appellant is also that under the garb of tender notification, the petitioner may also be deprived of the possession of the land and it is also his specific stand that the lands have not been taken possession and that he is yet to be paid with consideration.

4.Per contra, the learned Additional Advocate General appearing for the respondents would submit that the possession of the land of the appellant has already been taken in accordance with law and compensation amount has been deposited in the revenue deposit. Therefore, the above cited decision of the Constitutional Bench of the Hon'ble Supreme Court would come in aid of the respondents. It is the further submission of the learned Additional Advocate General that in the light of the undertaking given in paragraph No.7 of the counter affidavit, the apprehension expressed by the petitioner is wholly unfounded and further contended that the Petitioner challenges the notification, which also pertains to other district and on that ground also the Writ Appeal deserves dismissal with exemplary costs.

5.This Court considered the rival submissions and perused the materials placed on record.

6.The fourth respondent in his counter affidavit dated 24.06.2020 in W.P.(MD) No.6863 of 2020 had given a categorical undertaking that the status-quo order passed by the Hon'ble Supreme Court would be maintained in respect of the landowners who are party to the Special Leave Petitions mentioned above and that apart annexure to the counter affidavit would disclose the petitioner as one of the persons in whose favour interim status quo is in operation. The learned Single Judge after extracting paragraph Nos.6 and 7 of the counter affidavit as well as annexure in paragraph No.5 of the order, had granted liberty to the respondents to proceed with the other lands which are not covered by the orders of the Hon'ble Supreme Court. In the light of the said undertaking coupled with the recording of the said fact in paragraph No.5 of the impugned order, the apprehension expressed by the appellant is wholly unfounded and the Writ Appeal is devoid of merits.

7.As rightly pointed out by the learned Additional Advocate General, the petitioner while filing the Writ Petition did not restrict his prayer to column No.3 of the tender and also sought for quashment of the notification in respect of Madurai also. At this



juncture, the learned counsel for the appellant would submit that a mistake had crept in and prays for apology and the said apology is also accepted.

8. In the light of the reasons assigned above, the Writ Appeal deserves dismissal and accordingly the Writ Appeal is dismissed. However, in the facts and circumstances of the case, there shall be no order as to the costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD II)

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/ /2020

Sub Assistant Registrar(CS)

sj

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Chairman,
Tamilnadu Housing Board,
Nandanam,
Chennai - 600 035.
2. The Secretary,
Department of Housing and Urban Development Department,
State of Tamil Nadu,
Fort St. George,
Chennai - 600 009.
3. The Special Tahsildar (Land Acquisition),
Neighbourhood Scheme,
O/o. The Executive Engineer & Admin Officer,
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4. The Supervising Engineer,
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W.A. (MD) No. 474 of 2020
and
C.M.P. (MD) No. 3395 of 2020

07.07.2020

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