

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.03.2021

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.P.No.10987 of 2013

C.R.Ramaswamy Reddy

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by Secretary to Government,
Housing and Urban Development Department,
Fort St. George,
Chennai-600 009.
2. The Chairman Cum Managing Director,
Tamil Nadu Housing Board,
Anna Salai, Nandanam, Chennai 600 035.
3. The Executive Engineer,
Tamil Nadu Housing Board,
Bagalur Road, Hosur,
krishnagiri District.

... Respondents

Prayer: Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents herein to re-convey the lands to the petitioner in respect of lands measuring an extent of 2.48 acres comprised in Survey No.759/1, Nallur Village, Hosur Taluk, Krishnagiri District or issue No Objection Certificate certifying that this land is not required for the purpose for which it was acquired on the basis of petitioner's representation dated 28.03.2013.

For Petitioner : Ms.Poornima

For Respondents : Mr.V.Jayaprakash Narayanan for R1
Dr.R.Gowri for RR2 and R3

ORDER

This writ petition is filed for issuing a Writ of Mandamus, directing the respondents herein to re-convey the lands to the petitioner in respect of lands measuring an extent of 2.48 acres comprised in Survey No.759/1, Nallur Village, Hosur Taluk, Krishnagiri District or issue No Objection Certificate certifying that this land is not required for the purpose for which it was acquired on the

basis of petitioner's representation dated 28.03.2013.

2.The case of the petitioner is that the land measuring an extent of 2.48 acres comprised in Survey No.759/1 in Nallur Village, Hosur Taluk, Krishnagiri District was acquired by the state for implementing a scheme formulated by the Tamil Nadu State Housing Board. The petitioner purchased the property by a sale deed dated 12.02.1990. The acquisition proceedings were initiated in the year 2000 and a declaration under Section 6 of Land Acquisition Act was issued on 13.02.2002. It is admitted that the award was passed on 16.02.2004. However the petitioner states that no compensation was paid to the petitioner and also stating that the lands acquired were not utilized for the purpose for which they were acquired. Further it is stated that several parcels of lands had been released from acquisition. Hence, petitioner submitted representation for reconveyance of land.

3.It is stated by the respondent that the physical possession was taken on 16.02.2007. It is the case of the petitioner that after taking possession, he had filed a writ petition in W.P.No.7587 of 2008 for issuing a writ of Mandamus, directing the respondents to consider his representation dated 28.03.2013 and the same was disposed of on 13.08.2008 by directing the respondents to consider the representation of the petitioner.

4.The learned counsel appearing for the Tamil Nadu Housing Board filed a counter affidavit wherein, it is stated that the Government after taking possession from the land owner, handed over the lands to Tamil Nadu Housing Board. He further stated that the land owner refused to receive the compensation and therefore the award amount was deposited under Section 30 of Land Acquisition Act 1984 in the Sub Court and also stated that the Tamil Nadu Housing Board formed lay out and got approved in Approval No.T.P.No.12/2015. He further stated that the construction works were commenced in some parts of the land.

5.The learned counsel appearing for the State Housing Board further submitted that the request of the petitioner was also turned down earlier by the Government and that the petitioner has not challenged the order on his application.

6.The learned counsel for the petitioner submitted that the copy of the order was not communicated to the petitioner, and hence this writ petition cannot be dismissed on the ground that the representation under Section 48(B) of the Act was earlier rejected.

7.Considering the facts and circumstances of this case, this Court is not inclined to issue a Mandamus to the Government to re-convey the land acquired. Section 48(B) of the Land Acquisition Act is only an enabling the provision to

the Government to re-convey the land acquired, if the land is no more required not only for the public purpose for which it was acquired but also for any other purpose. In the present case, the possession was handed over to the Tamil Nadu Housing Board and the Board is now in the process of implementing the scheme in the acquired land. It is stated by the Housing Board that development works at a cost of Rs.28.37 Crores have been undertaken as per the resolution of the Board in 2015. Since possession is handed over to State Housing Board, there is no scope for re-conveyance by Government under Section 48 (B) of the Act. This Court does not find any merit in this case. Hence this writ petition is dismissed. No Costs.

Sd/-
Assistant Registrar (CS-VI)

// True Copy //

Sub Assistant Registrar

tta

Copy to

1. The Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George,
Chennai-600 009.
2. The Chairman Cum Managing Director,
Tamil Nadu Housing Board,
Anna Salai, Nandanam, Chennai 600 035.
3. The Executive Engineer,
Tamil Nadu Housing Board,
Bagalur Road, Hosur,
krishnagiri District.

+1 CC to Ms.R.Poornima, Advocate SR.No.17835
+1 CC to Government Pleader SR.No.17762

W.P.No.10987 of 2013

CP (CO)
GMY (12.07.2021)