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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2021

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos. 17017 & 17084 of 1997

M/s.V.Rangaswamy Naidu Educational Trust,
Peelamedu, Coimbatore 641 014
Rep by its Managing Trustee S.R.K.Prasad
(Cause title amended as per order
dated 19.11.2010 in M.P.No.359 of 2009
in W.P.No.17017 of 1997)

.... Petitioner in both W.Ps

Vs

1. The State of Tamil Nadu
Rep. by Secretary to Government,
(Department of Housing and Urban
Development), Fort St. George,
Chennai - 600 009.
2. The Special Tahsildar,
(Land Acquisition),
Housing Scheme Unit II,
Coimbatore.
3. The Executive Engineer & Admn. Officer,
Tamil Nadu Housing Board,
Coimbatore Housing Unit,
Tatabad, Coimbatore 641 012.

(R3 suo-motu impleaded as per
order dated 23.01.2018 in
W.P.Nos.17017 & 17084 /1997)

... Respondents in both W.Ps

Prayer in W.P.No. 17017 of 1997 :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a writ of certiorari, calling for the records in connection with the impugned notifications issued by the first respondent under Section 4(1) of the Land Acquisition Act vide G.O.Ms.No.671 (Housing & Urban Development) dated 31.07.1995 published in Government Gazette dated 13.09.1995 in Part II Section 2 and Section 6 of the Act vide G.O.Ms.No.389 (Housing & Urban



Development) dated 09.09.1996 and quash the same in respect of the petitioner's land in S.Nos.364/2A and 365/2A in Vilankurichi Village, Coimbatore North Taluk.

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Prayer in W.P.No. 17084 of 1997 :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a writ of certiorari, calling for the records in connection with the impugned notifications issued by the first respondent under Section 4(1) of the Land Acquisition Act vide G.O.Ms.No.617 (Housing & Urban Development) dated 26.09.1994 published in Government Gazette dated 09.11.1994 and Section 6 of the Act vide G.O.Ms.No.953 (Housing & Urban Development) published in Tamil Nadu Government Gazette dated 17.11.1995 and quash the same in respect of the petitioner's land in S.Nos.388/1A, 388/1C and 392/2 in Vilankurichi Village, Coimbatore North Taluk.

In both W.Ps

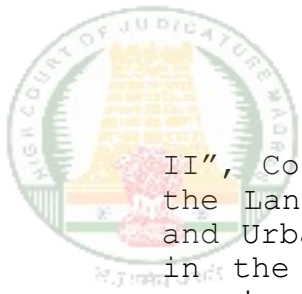
For Petitioner	:	Mr.A.Sundaravadhanan for Mr.G.K.Muthukumar
For R1 & R2	:	Mr.C.Kathiravan Special Government Pleader
For R3	:	Dr.R.Gowri Standing Counsel

COMMON ORDER

W.P.No. 17017 of 1997

This Writ Petition has been filed for issuance of writ of certiorari, calling for the records in connection with the impugned notifications issued by the first respondent under Section 4(1) of the Land Acquisition Act vide G.O.Ms.No.671 (Housing & Urban Development) dated 31.07.1995 published in Government Gazette dated 13.09.1995 in Part II Section 2 and Section 6 of the Act vide G.O.Ms.No.389 (Housing & Urban Development) dated 09.09.1996 and quash the same in respect of the petitioner's land in S.Nos.364/2A and 365/2A in Vilankurichi Village, Coimbatore North Taluk.

2. The Tamil Nadu Housing Board, Coimbatore Housing Unit, Coimbatore had requested for the acquisition of 894.64.0 hectares of lands in Vilankurichi Village, Coimbatore, for construction of houses for low income group and middle income group people under the "Ganapathy Neighbourhood Scheme, Phase



II", Coimbatore. The draft notification under Section 4(1) of the Land Acquisition Act was approved in G.O.Ms.No.671, Housing and Urban Development Department, dated 31.07.1995 and published in the Tamil Nadu Government Gazette dated 13.09.1995. The enquiry under Section 5A of the Land Acquisition Act, 1894 was conducted by the Special Tahsildar (LA) i.e., the second respondent herein. However, according to the petitioner, the 5A enquiry conducted by the second respondent, who has not duly authorised by way of notification. The authorised person to conduct 5A enquiry is Special Tahsildar (Land Acquisition), Housing Scheme, Unit - III. Except the said person no other person authorised by way of notification by the Government, can perform the functions of Collector to conduct 5A enquiry. The notification under Section 4(1) of the Land Acquisition Act was approved in G.O.Ms.No.671, Housing and Urban Development Department published only in Thinathani on 15.09.1995 and Pirpagal on 16.09.1995, widely circulated in the locality. The public notice of the substance of 4(1) notification was not effected as contemplated under the Act. The requisitioning body Tamil Nadu Housing Board in a representation manner to all the objections sending remarks dated 04.03.1996 to the Land Acquisition authority. After receipt of the remarks no further enquiry was conducted by the Land Acquisition Officer, after receiving the objections received from the petitioners particulars from 18.03.1996.

3. That apart, Section 6 declaration was not published in two widely circulated dailies. The sum and substance of Section 6 declaration was not effected as contemplated under the Act. However, even today, no award has been passed in respect of the subject property.

4. In view of the above and on the same remarks, the similar writ petition was allowed by this Court in W.P.No.17772 of 1995 dated 03.02.2004. Admittedly, even today, no award has been passed for the subject land. The entire "Ganapathy Neighbourhood Scheme" has been completed, no exonerating the subject land. That apart, no possession has been taken over in respect of the subject property from the petitioner and no award has been passed even today. Therefore, no purpose would be served, if the proceedings continued further.

5. In view of the above, the impugned notification issued by the first respondent under Section 4(1) of the Land Acquisition Act vide G.O.Ms.No.671 (Housing & Urban Development) dated 31.07.1995 published in Government Gazette dated 13.09.1995 in Part II Section 2 and Section 6 of the Act vide G.O.Ms.No.389 (Housing & Urban Development) dated 09.09.1996, is hereby set aside. However, the respondents are at liberty to initiate the proceedings under the Right to Fair Compensation



and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, if so advised.

6. In the result, W.P.No.17017 of 1997 is allowed. No costs.

W.P.No. 17084 of 1997

7. This Writ Petition has been filed for issuance of writ of certiorari, calling for the records in connection with the impugned notifications issued by the first respondent under Section 4(1) of the Land Acquisition Act vide G.O.Ms.No.617 (Housing & Urban Development) dated 26.09.1994 published in Government Gazette dated 09.11.1994 and Section 6 of the Act vide G.O.Ms.No.953 (Housing & Urban Development) published in Tamil Nadu Government Gazette dated 17.11.1995 and quash the same in respect of the petitioner's land in S.Nos.388/1A, 388/1C and 392/2 in Vilankurichi Village, Coimbatore North Taluk.

8. In view of the order passed in W.P.No.17772 of 1995 dated 03.02.2004, this Court already quashed the impugned notification issued by the first respondent under Section 4(1) of the Land Acquisition proceedings vide G.O.Ms.No.617 (Housing & Urban Development) dated 26.09.1994 published in Government Gazette dated 09.11.1994 and Section 6 of the Act vide G.O.Ms.No.953 (Housing & Urban Development) published in Tamil Nadu Government Gazette dated 17.11.1995 on the ground that Section 5A enquiry was conducted on 04.04.1995 and 12.06.1995. The petitioner has filed objections for the acquisition before the respondents and the remarks of the acquisition authority was received by the Special Tahsildar on 31.07.1995. The positive contention that there was no subsequent enquiry after the receipt of the remarks of the acquiring authority is not disputed by the respondents. That apart, the entire land was acquired for "Ganapathy Neighbourhood Scheme", no exonerating the subject land. The entire scheme has been over and so far no award has been passed and no possession has been taken over from the petitioner.

9. Considering the above, the impugned notification issued by the first respondent under Section 4(1) of the Land Acquisition Act vide G.O.Ms.No.617 (Housing & Urban Development) dated 26.09.1994 published in Government Gazette dated 09.11.1994 and Section 6 of the Act vide G.O.Ms.No.953 (Housing & Urban Development) published in Tamil Nadu Government Gazette dated 17.11.1995, is hereby set aside.



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10. In the result, W.P.No.17084 of 1997 is allowed. No costs.

Sd/-
Assistant Registrar (CS-VII)

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Sub Assistant Registrar

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To

1. The Secretary to Government,
State of Tamil Nadu
(Department of Housing and Urban
Development), Fort St. George,
Chennai - 600 009.
2. The Special Tahsildar,
(Land Acquisition),
Housing Scheme Unit II,
Coimbatore.
3. The Executive Engineer & Admn. Officer,
Tamil Nadu Housing Board,
Coimbatore Housing Unit,
Tatabad, Coimbatore 641 012.

+1cc to Mr.G.K.Muthukumaar, Advocate, S.R.No.63246

+1cc to the Government Pleader, High Court, Madras, S.R.No.63827

W.P.Nos. 17017 & 17084 of 1997

EV(CO)
SU(14/12/2021)