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IN THE HIGH COURT OF JUDICIATURE AT MADRAS

DATED : 26.08.2021

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI
W.A.NO.2061 OF 2011 AND M.P. NO.1 OF 2011

The Managing Director,
Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam, Chennai-600 035.

...Appellant / Third Party

versus

1.U.S.Ambika

2.The State of Tamil Nadu,
rep. by the Secretary to Government,
Housing and Urban Development,
Fort St. George,
Madras - 600 009.

3.The Special Tahsildar-II,
Land Acquisition,
Tamil Nadu Housing Board Scheme,
Arignar Anna Complex,
Thirumangalam,
Madras - 600 102.

...Respondents / Respondents No.1 & 2

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order passed in W.P. No.18046 of 1992 dated 20.07.1999.

Prayer of W.P.No.18046 of 1992 : To issue a Writ of Certiorari calling for the records pertaining to the issue of the notification under sec.4(1) of the Land Acquisition in G.O.Ms.No.826, Housing, dated 15.05.1978 and published in the Gazette on 07.06.1978 and the section 6 declaration made in G.O.Ms.No.389, Housing and Urban Development dated 06.06.1981 and published in the Gazette on 06.06.1981 in so far as the petitioner's land is concerned, comprised in S.No.292/1A Tambaram Village of an extent of 33 ½ cents in Tambaram Village, Saidapet Taluk, Chengalpattu District.



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For Appellant : Dr.R.Gowri
For Respondents : Mr.T.Arunkumar,
Government Advocate for R2 & R3
No appearance for R1

JUDGMENT

(Judgment of this Court was delivered by T.RAJA, J.)

Tamil Nadu Housing Board has brought this appeal challenging the impugned order dated 20.07.1999 passed in Writ Petition No.18046 of 1992.

2.Learned counsel appearing for the appellant submitted that after Notification under Section 4(1) of the Land Acquisition Act in G.O. Ms.No.826 dated 15.05.1978 and Section 6 Declaration in G.O. Ms. No.389 Housing and Urban Development dated 06.06.1981 were issued for the purpose of Tambaram Neighbourhood Scheme in Tambaram, proposing to acquire 58.59% acres of land, the first respondent/writ petitioner and others have filed Writ Petition Nos.11814 & 16866 of 1990 and 18046 of 1992 stating that the publication of the substance of the notification in the locality having not been made validly in the village, the entire acquisition proceedings are vitiated. Learned counsel for the appellant would further contend that the learned Single Judge ought to have impleaded the Housing Board/appellant herein as one of the respondents in the above writ petitions. Even without going into the merits of the case, mechanically following the earlier order, the learned Single Judge allowed the writ petitions, though the facts are different. Learned counsel for the appellant also submitted that in respect of the land in question covered in S.No.292/1A1A1, having an extent of 33½ cents, till date, the Housing Board has not taken physical possession. Secondly, the above scheme has not been executed for the past 40 years in the land belonging to the first respondent herein.

3.Learned Government Advocate appearing for respondents 2 and 3 submitted that till date, the physical possession of the land in question continues to be with the first respondent because the physical possession has not been taken over, although the compensation has been submitted in the Court.

4.But we are unable to agree with the submission made by the learned counsel appearing for the appellant. The reason being that firstly, when Notification under Section 4(1) of the Land Acquisition Act and Section 6 Declaration were quashed by this Court in the aforementioned writ petitions dated 20.07.1999, the authority or power to make use of the land belonging to the first respondent ceased to exist and consequently, the power of vesting is also disappeared.



Secondly, as the land owner becomes the owner of the land, the first respondent, who is the legal owner of the land, is entitled to re-possess the land as a matter of right. However, interestingly, in this case, the physical possession has not been taken by the Government or the Housing Board till date. Thirdly, the first respondent has not even received any compensation. Fourthly, the scheme has also not been implemented in respect of the land belonging to the first respondent. Therefore, we are unable to interfere with the order passed by the learned Single Judge. Accordingly, the writ petition stands dismissed. Consequently, M.P. No.1 of 2011 is closed. No costs.

Sd/-
Assistant Registrar (CS-VIII)

// True Copy //

Sub Assistant Registrar

vga

To

1.The State of Tamil Nadu,
rep. by the Secretary to Government,
Housing and Urban Development,
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2.The Special Tahsildar-II,
Land Acquisition,
Tamil Nadu Housing Board Scheme,
Arignar Anna Complex,
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+1cc to the Government Pleader SR.No.43388

W.A.No.2061 of 2011 and M.P. No.1 of 2011

SRA(CO)
RVM(21/09/2021)