



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.6130 OF 2018

G.Sivanandam

... Petitioner

vs.

1. The Government of Tamil Nadu,
Represented by its Secretary to Govt.,
Ministry of Housing and Urban Development,
Fort St. George, Chennai - 600 009.
2. The Tamil Nadu Housing Board,
Represented by its Managing Director,
Nandam, Chennai - 600 035.
3. The Special Deputy Collector
(Land Acquisition), CMDA,
Thalamuthu Natarajan Building,
Gandhi Irwin Road,
Egmore, Chennai - 600 008.
4. The Commissioner,
Ambattur Township Corporation,
Ambattur, Chennai - 600 053.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to re-convey the lands of the petitioner measuring an extent of 8.97 acres comprised in S.No.331/2 (2.60 acres), S.No.331/1 (0.60 acres), S.No.333/part (0.53 acres), and S.No.332 (1 acre), lands in S.No.319, 326/1, 320/2A, 327 and 329 (totally 4.77 acres) situated at Mugappair Village, Ambattur Taluk, Thiruvallur District under Section 101 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 or in the alternative, pay compensation to the petitioner with regard to the above said lands as on dated under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.



WEB COPY

For Petitioner : Mr.V.Raghavachari
For R1 and R3 : Mr.G.Ameedius
Government Advocate
For R2 : Mr.M.Baskar

ORDER

This writ petition has been filed to issue a Writ of Mandamus, directing the respondents to re-convey the lands of the petitioner measuring to an extent of 8.97 acres comprised in S.No.331/2 (2.60 acres), S.No.331/1 (0.60 acres), S.No.333/part (0.53 acres), and S.No.332 (1 acre), lands in S.No.319, 326/1, 320/2A, 327 and 329 (totally 4.77 acres) situated at Mugappair Village, Ambattur Taluk, Thiruvallur District under Section 101 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 or in the alternative, pay compensation to the petitioner with regard to the above said lands as on dated under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2. The case of the petitioner is that the land ad-measuring 8.97 acres comprised in S.No.331/2 (2.60 acres), S.No.331/1 (0.60 acres), S.No.333 (0.53 acres), a part of S.No.332 (1 acre), lands in S.No.319, 326/1, 320/2A, 327 and 329 (totally 4.77 acres) situated at Mugappair Village, Ambattur Taluk, Thiruvallur District, originally belong to the petitioner's father. After his demise, the said properties were inherited by the petitioner along with his family members. While being so, the said lands were proposed to acquire under the Ambattur Neighbourhood Scheme. Accordingly, a notification under Section 4(1) of the Land Acquisition Act, 1984 (hereinafter referred to as 'the Act' for short) was issued on 12.11.1975 and a declaration under Section 6 of the Act was issued on 10.11.1978. Thereafter, the award was passed on 30.07.1981 in Award No.7/81.

3. The petitioner already challenged the acquisition proceedings with consequential relief and for a direction directing the respondents to re-convey the same. The writ petition was dismissed by this Court and confirmed by the Hon'ble Division Bench of this Court in writ appeal. Thereafter, the petitioner made representation for re-conveyance of the subject lands. The said request was pending and as such, this Court by an order dated 07.10.2005 in W.P.No.32539 of 2005 directed the 1st respondent herein to consider the petitioner's representation dated 20.01.2005 for re-conveyance of the subject



properties. The said request of the petitioner was duly considered and rejected by the 2nd respondent by an order dated 25.07.2012. The said order was also challenged in W.P.No.3613 of 2013 and this Court by an order dated 17.12.2015 dismissed the writ petition. Again, the petitioner filed this writ petition to re-convey the subject properties.

4. The learned counsel for the petitioner submitted that the subject lands were kept unutilized for more than three decades and as such, the petitioner was deprived of his right to get the subject lands re-conveyed. Similarly placed persons were considered and re-conveyed their properties and as such, it is violation of Article 14 of the Constitution of India, 1950 and the request of the petitioner alone rejected. He further submitted that the subject lands were not utilised for the purpose on which it was acquired. The subject lands have now used for park and whereas, the said lands were originally acquired for the purpose of Ambattur Neighbourhood Scheme.

5. Similarly placed persons challenged the rejection of re-conveyance order and this Court by an order dated 30.04.2013 in W.P.No.3559 of 2004 held that the area known as 'Ambattur Neighbourhood Scheme', which is a very general term and that there is absolutely no indication whether the development was to be for residential and building sites or of commercial or industrial plots and even if it that was for a residential purpose, it did not state as to what type of residential accommodation was proposed or for whom or any other details. In the absence of the details about the alleged public purpose for which the land was sought to be acquired, no one could comprehend as to why the land was being acquired.

6. He further submitted that Section 101 of the New Act is completely violated and the lands have been kept unutilised for more than five years from the date of taken over the possession. Therefore, the entire acquisition proceedings lapsed and the petitioner is entitled for re-conveyance of the subject lands.

7. Per contra, the 2nd respondent filed counter affidavit dated 23.09.2021, revealed that the subject lands in S.No.331/2 (2.60 acres), S.No.331/1 (0.60 acres), S.No.333 (0.53 acres), a part of S.No.332 (1 acre), lands in S.No.319, 326/1, 320/2A, 327 and 329 (totally 4.77 acres) situated at Mugappair Village, Ambattur Taluk, Thiruvallur District, were acquired and taken over from the Land Acquisition Officer even as early as on 11.08.1981. After passing of award dated 30.07.1981 in Award No.7/81, the entire extent of lands acquired were utilized for the aforesaid scheme and service scheme, such as prime commercial, bus stand, road and residential park site etc. The



park lands and road portions were handed over to the local body even as early as on 20.07.1987 for maintenance and it is maintained by the Ambattur Municipality as on date. Therefore, there is no land available for re-conveyance in respect of the subject lands.

8. Therefore, no lands are available for re-conveyance as on now, since the entire land along with subject lands had already been utilized for the Ambattur Neighbourhood Scheme. The Ambattur Neighbourhood Scheme means that the construction of houses. When the Tamil Nadu Housing Board after acquisition, layout the subject properties and the Tamil Nadu Housing Board has to execute Gift Deed in favour of the Corporation or Municipality with regards to laying of road and park etc. After execution of Gift Deed only, the layout was approved. Accordingly, the Tamil Nadu Housing Board after acquisition, executed Gift Deed in favour of the Ambattur Municipality with regards to aforesaid purpose. Accordingly, road has been laid and park has been formed and the same was maintained by the Ambattur Municipality. Therefore, it cannot be said that the Ambattur Neighbourhood Scheme specifically used for the aforesaid purpose.

9. That apart, as stated supra, the request of the petitioner was duly considered and rejected and also confirmed by this Court in W.P.No.3613 of 2013, dated 17.12.2015. In view of the above, the request of the petitioner cannot be considered and the writ petition is devoid of merits and it is liable to be dismissed.

10. Accordingly, this writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

dm

To

1. The Secretary to Government,
Ministry of Housing and Urban Development,
Fort St. George, Chennai - 600 009.
2. The Tamil Nadu Housing Board,
Represented by its Managing Director,
Nandam, Chennai - 600 035.



3. The Special Deputy Collector
(Land Acquisition), CMDA,
Thalamuthu Natarajan Building,
Gandhi Irwin Road,
Egmore, Chennai - 600 008.

4. The Commissioner,
Ambattur Township Corporation,
Ambattur, Chennai - 600 053.

+1cc to Mr.V.Raghavachari, Advocate, S.R.No.64202

+1cc to the Government Pleader, S.R.No.64818

W.P.No.6130 of 2018

SVI (CO)
RLP (27/12/2021)