

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.01.2021

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.P.No.24215 of 2012
and
W.M.P.No.1 of 2012

1.Ramathal
2.A.Thangavelu

... Petitioners

Vs.

1.The Government of Tamil Nadu,
Rep. its Secretary to Housing & Urban
Development, Fort, St. George,
Chennai-600 009.

2.The District Collector,
Collectorate,
Coimbatore-18.

3.The Executive Engineer,
Tamil Nadu Housing Board,
Coimbatore.

4.The Special Tahsildar,
(Land Acquisition),
Housing Scheme No.1,
Collectorate, Coimbatore-18

... Respondents

Prayer: Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, directing the respondents to pass orders that 40 cents of lands of the petitioners in S.F.No.83 in Vellakinaru Village stands released from Vellakinary Sub-urban development scheme, consequent upon the order of this Court passed in W.P.No.4462 of 1997 dated 07.12.2001 quashing the Sec.6 and Sec.4(1) Notification of this scheme as far as the petitioners are concerned.

For Petitioners : No appearance

For Respondents : Mr.M.Elumalai
Additional Government Pleader
for RR1,2 and 4
M/s.Gowri for R3

ORDER

This Writ Petition is filed for Writ of Certiorarified Mandamus, directing the respondents to pass orders that 40 cents of lands of the petitioners in S.F.No.83 in Vellakinaru Village stands released from Vellakinary Sub-urban development scheme, consequent upon the order of this Court passed in W.P.No.4462 of 1997 dated 07.12.2001 quashing the Sec.6 and Sec.4(1) Notifications of this scheme as far as the petitioners are concerned.

2.It is admitted that challenging the acquisition proceeding in respect of petitioner's land, the petitioners have earlier filed a writ petition in W.P.No. 4462 of 1997 and the same was allowed on 07.12.2001. It is admitted before this Court that no further proceedings was initiated for fresh acquisition. The learned counsel for respondents though stated that the appeal has been filed by the respondent and the same is pending, nothing is produced to confirm any appeal is pending atleast in SR Stage.

3.The present writ petition is filed challenging the order passed by the third respondent dated 03.03.2011. After the acquisition proceedings was quashed by this Court in 2001, the petitioners approached the respondents to get a no objection certificate from the respondents to the effect that land of petitioner is released from the encumbrance of land acquisition. A sum of Rs.1,000/- was also collected from the petitioner. By the impugned order, it is admitted that by the order in the writ petition in W.P.No.4462 of 1997, the acquisition proceedings was quashed. It is further confirmed that no appeal is filed and possession was not handed over to the Board in respect of land to an extent of 0.170 hectares belonged to the petitioners. However, it is stated that the request of the petitioners to give a letter of no objection cannot be granted to the petitioners as the land is required for the housing board project.

4.This Court is unable to accept the reason stated in the order impugned in the writ petition. The ownership of petitioner was not disputed in the earlier writ petition filed by the petitioner in W.P.No.4462 of 1997. The acquisition proceedings initiated by the respondent earlier for the purpose of implementing the scheme formulated by the Tamil Nadu State Housing Board, was quashed by this Court by order dated 07.12.2001 in respect of petitioner's land. It is not a case of housing board, that they initiated fresh proceedings to implement their project or an appeal is filed and pending before this Court. Even in the impugned order it is stated that no appeal is filed as against the order passed by this Court earlier in W.P.No.4462 of 1997. After the acquisition proceedings is quashed by this Court. The second is expected to say no objection to the land owner, stating that the land is not under acquisition. Refusing to give no objection to the

land owner in an act of contempt of Court and this unbecoming conduct of third respondent is deprecated. Even after the acquisition proceeding is quashed by this Court, the petitioners are unable to deal with their property. Once acquisition proceedings is initiated, unfortunately the requisition body inform the Sub Registrars and Tashildar to show the name of requisition body. The impugned order shows the conduct of respondent showing disrespect to Court orders and give a feeling to the petitioners that there is something more is required than the order of this Court.

5. Accordingly, the writ petition is allowed and the impugned order dated 03.03.2011 is quashed. The land belonging to the petitioners was released from the acquisition proceedings by the order of this court dated 07.12.2001 in W.P.No.4462 of 1997. The authorities of Tamil Nadu Housing Board has now made an attempt to make the property still litigious to the petitioners. Therefore, the third respondent is liable to pay a sum of Rs.10,000/- to the petitioners by way of compensation within a period of one month from the date of receipt of copy of this order. No Costs. It is open to the Government to fix the liability on the individual officer who passed the order after holding enquiry. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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Copy to

1.The Secretary to Housing & Urban
The Government of Tamil Nadu,
Development, Fort, St. George,
Chennai-600 009.

2.The District Collector,
Collectorate,
Coimbatore-18.

3.The Executive Engineer,
Tamil Nadu Housing Board,
Coimbatore.

4.The Special Tahsildar,
(Land Acquisition),
Housing Scheme No.1,
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+1cc to the Government Pleader SR.5089

W.P.No.24215 of 2012
and
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(CO)

CB(10/03/2021)



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