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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2021

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THE HON'BLE MR. JUSTICE S.S.SUNDAR

W.P.No. 10883 of 2018

T. Venugopal Naickar @
Venu Naickar

..Petitioner

Vs

1.The State of Tamil Nadu,
Represented by its
Principal Secretary to Government
Revenue Department,
Fort St. George, Chennai - 600 009.

2.The Commissioner of Revenue Administration,
Chepauk, Chennai - 600 005.

3.The District Collector,
Collectorate, Thiruvallur District.

4.The Special Tahsildar (LA)
Maduravayal Taluk, Chennai.

5.The Managing Director,
Larsen and Toubro Company Limited
Mount Poonamally High Road,
Ramapuram, Chennai-89.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to reconvey the property situated in Ramapuram and Manapakkam, within the limits of Chennai, now Maduravayal Taluk, abutting Chennai to Poonamally High Road, Tiruvallur District, admeasuring an extent of about 1 acre and 41 cents, comprised in Survey No.127/2, by considering the representation of the petitioner dated 18.07.2017, as per 1974 Revenue records, as the same has not been utilised for which it was acquired and no amount of compensation has been withdrawn by the petitioner.

For Petitioner : Mr.P.Mathivanan

For RR 1 to 4 : Mr.M. Elumalai
Additional Government Pleader

For R5 : Mr.S.R. Raghunathan



O R D E R

This Court had already taken a view that an application under Section 48B of land acquisition Act, for re-conveyance, is not maintainable once the land vested with the Government is transferred to the requisitioning body. It is the case of the petitioner that the land belonged to the petitioner was acquired by issuing a notification under the Land Acquisition Act in the year 1972.

2. It is further submitted that the dispute relating to quantum of compensation was also finally determined in the year 1982. It is also admitted by the petitioner himself that the possession of the petitioner's land was handed over to the requisitioning body, namely the 5th respondent on 10.06.1984. However, the petitioner, claiming to be the owner of the acquired lands, gave a representation under Section 48B of the Land Acquisition Act for re-conveyance on 16.07.2017.

3. Section 48-B of the Land Acquisition Act, 1894, reads as follows:-

Section: 48-B. Transfer of land to original owner in certain cases.-

Where the Government are satisfied that the land vest in the Government under this Act is not required for the purpose for which it was acquired, or for any other public purpose, the Government may transfer such land to the original owner who is willing to repay the amount paid to him under this Act for the acquisition of such land inclusive of the amount referred to in Sub-section (1-A) and (2) of Section 23, if any, paid under this Act.

4. Hence, the power can be exercised by the Government under Section 48-B of the Land Acquisition Act, 1894, to transfer the land only when the land is vested with the Government, pursuant to the land acquisition. In the present case, the entire compensation was paid and the land was transferred to the fifth respondent. The land which was acquired in 1972 for the 5th respondent, cannot be sought to be re-conveyed after this length of time, at the instance of the one of the owner of the property, even after the land was transferred pursuant to the acquisition in favour of the fifth respondent. The Hon'ble Supreme Court considered the scope of Section 48-B of the Land Acquisition Act. In the case of Tamil Nadu Housing Board v. Mr.L. Chandrasekaran and Ors, reported in [2010 (2) SCC 786], wherein the Hon'ble Supreme Court has held as follows.-

"18. It need no emphasis that in



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exercise of power under Section 48-B of the Act, the Government can release the acquired land only till the same continues to vest in it and that too if it is satisfied that the acquired land is not needed for the purpose for which it was acquired or for any other public purpose. To put it differently, if the acquired land has already been transferred to other agency, the Government cannot exercise power under Section 48-B of the Act and reconvey the same to the original owner. In any case, the Government cannot be compelled to reconvey the land to the original owner if the same can be utilized for any public purpose other than the one for which it was acquired."

5. Hence, there is no scope for considering the petition for re-conveyance by Government after the land was transferred to fifth respondent. Further, it is open to the Government to utilize the land for other public purpose even if the land is not utilized for the purpose for which it was acquired. Even in this Writ Petition, the petitioner has not stated anything about the purpose for which the acquisition was made and how the land was never utilized by the 5th respondent. In any event a request under Section 48 (B) can not be entertained by Government.

6. This Court as well as Hon'ble Supreme Court had occasions to deal with similar cases where the petitioner approaches Court after a considerable delay causing irreparable injury to the respondents as in this case. The petitioner has filed this Writ Petition seeking for reconveyance after 45 years since taking possession of the land. As pointed out earlier, the Government cannot exercise the power under Section 48 (B) of the Land Acquisition Act, once the land had been transferred in favour of the 5th respondent. Even if the property is not utilized for the purpose for which it was acquired, it is open to the Government to take action under Section 16(A) and 16(B) of the Land Acquisition Act as applicable to the State of Tamil Nadu and utilize the land for any other public purpose.

7. This Court has not been provided with sufficient particulars, and hence this Court has no inclination to issue any further directions to Government to take any action against the fifth respondent. Finally, the learned counsel for the petitioner sought for time to prove the petitioner's case and stated that it is necessary that the legal heirs should be impleaded to prosecute further as the petitioner is no more. There is no abatement in writ proceedings. Hence, it is open to



the legal heirs to prosecute further from this point as persons entitled to succeed to the estate of the petitioner. The Writ Petition lacks merits and is liable to be dismissed also on the ground of laches.

8. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

msm

To

- 1.The Principal Secretary,
Government of Tamil Nadu,
Revenue Department,
Fort St. George, Chennai - 600 009.
- 2.The Commissioner of Revenue Administration,
Chepauk, Chennai - 600 005.
- 3.The District Collector,
Collectorate, Thiruvallur District.
- 4.The Special Tahsildar (LA)
Maduravayal Taluk, Chennai.
- 5.The Managing Director,
Larsen and Toubro Company Limited
Mount Poonamally High Road,
Ramapuram, Chennai-89

+1cc to Mr.V.Ravikumar, Advocate, S.R.No. 19330
+1cc to Mr.SR.Raghunathan, Advocate, S.R.No. 19479
+1cc to the Government Pleader, S.R.No. 19726

W.P.No. 10883 of 2018

PCH(CO)
GN(23/07/2021)