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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.33744 OF 2013

S.Suganya

... Petitioner

Vs

1. The Government of Tamil Nadu
represented by
The Secretary to the Government,
Housing and Urban Development Department,
Chennai - 600 009.
2. The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.
3. The Tahsildar (Land Acquisition),
Housing Scheme Unit - 2,
District Collector Office Campus,
Coimbatore 641 018.

... Respondents

Prayer : Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of CERTIORIFIED MANDAMUS calling for the records pertaining to the impugned letter No.17670/LA3(2)/2012-8 dated 17.06.2013 passed by the 1st respondent and quash the same and direct the 1st respondent to re-convey the land situated at S.F.No.349, Kalappatti Village, Coimbatore Taluk, Coimbatore, measuring an extent of 0.67 $\frac{1}{4}$ acres in favour of the petitioner, within a reasonable time as may be stipulated by this Hon'ble Court.

For Petitioner : Mr.A.E.Ravi Chandran



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For Respondents : Mr.M.R.Gokul Krishnan,
1 and 3 Government Advocate

For Respondents : Dr.R.Gouri
2 Standing Counsel

O R D E R

This writ petition has been filed to issue a Writ of Certiorified Mandamus calling for the records pertaining to the impugned letter No.17670/LA3(2)/2012-8 dated 17.06.2013 passed by the 1st respondent and quash the same and direct the 1st respondent to re-convey the land situated at S.F.No.349, Kalappatti Village, Coimbatore Taluk, Coimbatore, measuring an extent of 0.67 ¼ acres in favour of the petitioner, within a reasonable time as may be stipulated by this Hon'ble Court.

2. The case of the petitioner is that the petitioner owned property to an extent of 671.4 cents comprised in Survey No.349 situated at Kalappatti Village, Coimbatore, by virtue of the sale deed dated 16.03.2006 registered vide Document No.2163 of 2006 on the file of the Sub Registrar Office, Gandhipuram, Coimbatore. The first respondent proposed to acquire the property admeasuring 1973.74 acres at Kalappatti Village including the petitioner's land for the purpose of Neighbourhood Scheme and issued Notification under Section 4(1) of the Land Acquisition Act, 1894 dated 13.03.1998. Subsequently, the Government decided to drop the acquisition proceedings to an extent of 1186.38 acres and proceeded to cover 787.36 acres and to that extent the award has been passed.

3. However, the land owners have challenged the acquisition proceedings in a batch of writ petitions before this Court in W.P.No.16417 of 1998 etc., and this Court by an order dated 30.08.2010 quashed the entire acquisition proceedings under Section 4(1) or Section 6 declaration or both. Aggrieved by the same, the respondents filed writ appeals and the Hon'ble Division Bench of this Court confirmed the order passed by the learned Single Judge. In fact, the Special Leave Petition filed by the respondents before the Hon'ble Supreme Court of India was also dismissed. Thus, it is clear that the entire acquisition proceedings were quashed by this Court.



4. In so far as the land belongs to the petitioner is concerned, he purchased the said land only in the year 2006, however, the said land comprised in S.F.No.349 situated in the total extent of the property admeasuring 4.62 acres and out of which to an extent of 3.94.34 acres was purchased by one Umamaheswari Ramasamy, R.Mayilathal R.Palaniammal and S.Sarojini. They requested to re-convey the land in pursuant to the order passed by this Court and the said request was rejected and aggrieved by the same, they filed writ petitions in W.P.Nos.1607 to 1610 of 2009. All the writ petitions were allowed by this Court by an order dated 30.08.2010. In fact, aggrieved by the same the second respondent also filed writ appeals in W.A.Nos.252 to 255 of 2011 and the Hon'ble Division Bench of this Court and the same were dismissed. Therefore, this Court directed the respondents to re-convey the land to the respective owners of the property and the respective owners were directed to refund the compensation received by them together with interest at the rate of 6% per annum.

5. In so far as the petitioner is concerned, he purchased the property without being aware of the acquisition proceedings and subsequently obtained the building plan for putting up construction. Therefore, the petitioner applied for no objection certificate for putting up construction. Since the same was not considered, the petitioner approached this Court in W.P.No.27544 of 2011 and this Court by an order dated 24.08.2012 directed the petitioner to make an application to appropriate Government Authority for re-conveyance of the land which was acquired from her and further directed to the authorities concerned to consider the same and pass orders on merits in accordance with law. Accordingly, the petitioner made a representation for re-conveyance of the land and also for issuance of no objection certificate to deal with the subject property, however, without considering the above facts, the first respondent passed the order impugned in this writ petition thereby rejecting the request of the petitioner for the reason that relating to the subject land, already the petitioner made request for re-conveyance and the same was rejected under Section 48(b) of the Land Acquisition Act. That apart, the subject land is required for the second respondent and as such it cannot be considered under Section 48(b) of the Land Acquisition Act.



6. Perusal of the records shows that the entire land acquisition proceedings was quashed by this Court and subsequently confirmed by the Hon'ble Supreme Court of India. However, considering the fact that the petitioner being the subsequent purchaser and had no knowledge about the acquisition proceedings and also compensation amount whether her vendor received or not. Hence, the order impugned is liable to be set aside.

7. Accordingly, the impugned letter No.17670/LA3(2)/2012-8 dated 17.06.2013 passed by the 1st respondent is set aside. It is made clear that the petitioner is directed to return the compensation received by the petitioner or by her vendor together with interest at the rate of 6% per annum within a period of four weeks from the date of receipt of a copy of this order. On receipt of the same, the first respondent is directed to re-convey the subject properties comprised in S.F.No.349, Kalappatti Village, Coimbatore Taluk, Coimbatore measuring an extent of 0.67-1/4 acres in favour of the petitioner and also issue no objection certificate to the petitioner to deal with the property.

8. Accordingly, this writ petition is allowed. No order as to costs.

Sd/-
Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

rna/rgi

To

1. The Secretary to the Government,
Housing and Urban Development Department,
Chennai - 600 009.
2. The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.



3. The Tahsildar (Land Acquisition),
Housing Scheme Unit - 2,
District Collector Office Campus,
Coimbatore 641 018.

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+1cc to Mr.A.E.Ravi Chandran, Advocate, S.R.No.48103

+1cc to the Government Pleader, S.R.No.48511

W.P.No. 33744 of 2013

RGN(CO)

RLP(22/10/2021)