



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.6099 of 2013

and

M.P.Nos.1 and 2 of 2013 and W.M.P.No.3805 of 2020

1. K.S.Shanmugam (deceased)
2. S.Palanisamy
3. S.Maragathavalli
4. A.Lalitha
5. Saroja Raju
6. S.Prakash
7. Rajeswari

[Seventh petitioner substituted as LR of deceased first petitioner as per order dated 11.11.2019 made in W.M.P.No.31341/2019 in W.P.No.6099 of 2013]

... Petitioners

Vs.

1. The State of Tamil Nadu,
Rep.by its Secretary to Government,
Housing & Urban Development Department,
Secretariat, Chennai - 600 009.
2. The Executive Engineer & Administrative Officer,
Tamil Nadu Housing Board,
Erode Housing Unit, Erode.
3. The District Collector,
Erode.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records pertaining to letter No.4544/NIA3(1)/2008-21, dated 12.03.2012 on the file of the first respondent and quash the same and consequently direct the respondents to re-convey the lands to the petitioner in so far as it relates to the Survey No.752/3 of Kasipalayam Village, Erode Taluk to an extent of 40 ½ cents.



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For Petitioners : Mr.S.Saravanan

For Respondents : Mr.Richardson Wilson
Government Advocate
(for R-1 and R-3)

: Mr.I.Sathish
Standing Counsel (for R-2)

ORDER

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to letter No.4544/NIA3(1)/2008-21, dated 12.03.2012 on the file of the first respondent and quash the same and consequently direct the respondents to re-convey the lands to the petitioners in so far as it relates to Survey No.752/3 of Kasipalayam Village, Erode Taluk of an extent of 40 ½ cents.

2. The lands comprised in S.No.752/3 situated at Kasipalayam Village, Erode Taluk & District, belonged to one Kuppusamy viz., the father of the petitioners 3 to 5 and others. The first respondent initiated proceedings under the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act', for short) for the purpose of construction of houses as requested by the second respondent. Accordingly, the first respondent issued notification under Section 4(1) of the Act in G.O.Ms.No.175, Housing and Urban Development Department, dated 08.04.1992, which was published in the Tamil Nadu Government Gazette No.17-C, dated 29.04.1992 Part-II and Section 6 declaration under the Act was published in the Government Gazette No.277, dated 25.05.1993 for acquiring 27 cents in S.No.752/3 belonging to Periyammal and N.Kuppusamy and of an extent of 13.5 cents belonging to one K.S.Shanmugam, viz., the first petitioner (since deceased). Thereafter, settlement deed in favour of the sixth petitioner herein was executed, vide registered Document No.309 of 2013. In fact, said Periyammal, N.Kuppusamy and K.S.Shanmugam and others filed Writ Petitions in W.P.Nos.7311, 7312, 7114, 7515, 14856 of 1994 and 300 and 1244 of 1995 before this Court and while disposing of the said Writ Petitions, this Court had given liberty to the petitioners therein to make representation to the authorities concerned to exclude their lands from the acquisition proceedings, in pursuance of the resolution dated 30.01.1995 passed by the second respondent. Accordingly, the petitioners therein submitted their representation on 30.08.2001 and their request was considered and rejected by the first respondent, by the order impugned in this Writ Petition.

3. The learned counsel for the petitioners submitted that,



though their request was considered and rejected, without application of mind, the first respondent passed the impugned order in respect of S.Nos.752/8 Part and 762/A situated at Kasipalayam Village. The petitioners' land is comprised in S.No.752/3.

4. On a perusal of the counter affidavit filed by the second respondent, it reveals that, after completion of the Award enquiry, the Award was pronounced by the Land Acquisition Officer in Award No.1 of 95, dated 22.05.1995 for the entire land comprised in S.No.752 including the petitioners' land ad-measuirng an extent of 0.40 ½ acres in Erode C Village, Erode Taluk, Erode District. The entire compensation amount of Rs.1,35,436/- was ordered to be deposited under Section 30 of the Act before the Sub Court, Erode. Therefore, the request of the petitioners for exclusion of the land, had been duly considered and rejected, since the entire scheme has been over and the subject land is very much required for the second respondent to complete the project.

5. On a perusal of the impugned order, it is seen that the first respondent mentioned the survey numbers as S.Nos.752/8 and 762/A, whereas the subject land is situated in S.No.752/3, Kasipalayam Village, Erode District. It shows that the first respondent passed the order without application of mind, though the petitioners specifically stated in their representation with regard to the land comprised in S.No.752/3 situated at Kasipalayam Village, Erode District.

6. In view of the above discussion, the impugned order dated 12.03.2012 is set aside and the matter is remanded back to the first respondent for fresh consideration. It is made clear that the first respondent is directed to issue notice to the petitioners and others aggrieved, if any, within a period of two weeks from the date of receipt of a copy of this order, and after giving an opportunity of hearing to the petitioners and others, if any, pass appropriate orders, on merits and in accordance with law, within a period of twelve weeks thereafter.

7. In the result, the Writ Petition is allowed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar



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To

1. The Secretary to Government,
The State of Tamil Nadu,
Housing & Urban Development Department,
Secretariat, Chennai - 600 009.
2. The Executive Engineer & Administrative Officer,
Tamil Nadu Housing Board,
Erode Housing Unit, Erode.
3. The District Collector,
Erode.

+1cc to Mr.S.Saravanan, Advocate, S.R.No.55485
+1cc to Mr.I.Sathish, Advocate, S.R.No.56080

W.P.No.6099 of 2013

PCH(CO)
SB(30/11/2021)