

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2021

CORAM

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR
W.P.No. 7136 of 2013

1.Rajathilagam (Deceased)

2.R.Saraswathi

3.R.Kavitha

4.R.Balaji

... Petitioners

(P2 to P4 are substituted as LRS of Deceased P1 as per order dated 18.10.2019 in W.M.P.No.24925 of 2018 in W.P.No.7136 of 2013)

vs.

1. The Government of Tamil Nadu repd by the Secretary to Government, Housing and Urban Development, Fort.St.George, Madras-9.
2. The Special Tasildhar, Land Acquisition, Hosur.
3. The Managing Director, Tamil Nadu Housing Board, Madras-35.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Declaration, to declare the G.O.312 issued by the first respondent dated 10.06.1992 and Award No.6 of 1994 dated May 1994, as illegal and unconstitutional.

For Petitioners: Mr.V.Raghavachari

For Respondents: Mr.A.Akhil Akbar Ali (For R1 and R2)
Government Advocate

Dr.R.Gowri (For R3)
Standing Counsel for TNHB

O R D E R

The petitioner has filed this writ petition for issuing a writ of declaration, to declare the G.O.Ms.No.312, Housing and Urban Development (LA.II), dated 10.06.1992 issued by the first respondent herein and the award passed by the Special Tahsildar, Land Acquisition, Hosur/the second respondent herein in Award No.6 of 1994 dated 24.05.1994, as illegal and unconstitutional.

The brief facts necessary for disposal of the writ petition are as follows:-

2. The petitioners state that the first petitioner purchased the property in Survey No.94/B in Hosur Village, Krishnagiri District by virtue of registered sale deed dated 18.05.1990. It is the case of the petitioners that the first petitioner got the land sub-divided as S.Nos.94/B1, 94/B2 and 94/B3. It is admitted by the petitioners that an extent about 13.54 Hectares was sought to be acquired by the Government by issuing G.O.Ms.No.359, Housing and Urban Development, dated 14.03.1991.

3. Though the petitioners have not given details of the notification, this Court can assume that the notification dated 14.03.1991 must be a notification under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act' for short). It is admitted that the declaration under Section 6 of the Act was made while G.O.Ms.No.312, Housing and Urban Development (LA.II), dated 10.06.1992. The petitioners also admit that an award was passed in May-1994. Stating that the petitioner was not given compensation for the land owned by him, the above writ petition is filed for issuing a writ of declaration, to declare that the acquisition proceedings is illegal and unconstitutional.

4. Though the petitioners state that the compensation was not paid, it is not denied before this Court that possession was taken pursuant to the acquisition. Learned counsel for the petitioner states that no award amount was paid to the petitioner to utilise the same for investing or to purchase alternative property. There is no whisper about the possession. The petitioner who filed this writ petition is one Rajathilagam. The sale deed produced by the petitioner shows that the property was purchased from one C. Narayanasamy S/o. Seetharamayya and his children. The property as per the second document produced by the petitioner stands in the name of one Gopal S/o. Seetharamayya and 4 others. During award enquiry, one Gopal S/o. Seetharamayya appeared before Land Acquisition Officer claiming compensation at the rate of Rs. 75 lakhs per hectare but informed further that the land was converted as layout and had been sold as plots already. Petitioner has purchased a small plot from another person. The petitioner has not given the particulars about ownership.

5. Learned Government Advocate appearing for the first and second respondents and the Learned Standing Counsel appearing for the third respondent, on instructions, state that the possession of land was taken by the Tamil Nadu Housing Board in 2002 and that patta was also transferred in the name of Tamil Nadu Housing Board.

6. It is well settled that the lands vest with the Government under Section 16 of the Act immediately upon taking possession. This has happened long before the land was transferred in favour of the Tamil Nadu Housing Board. Once the land vested with the Government, the Hon'ble Supreme Court has repeatedly held that the writ petition challenging the acquisition proceedings, cannot be entertained and it is liable to be dismissed on the ground of delay and laches. Though the prayer in the writ petition is slightly different, the ultimate prayer that can be granted in favour of the petitioners is by quashing acquisition proceedings.

7. In view of the long delay in approaching the Court and the fact that the property vested with the Government and then transferred in favour of the Tamil Nadu Housing Board for a housing project, long before the writ petition was filed, this Court has no other option but to dismiss the writ petition on the ground of delay and laches. However, it is open to the petitioner to approach the officials for disbursement of compensation as per the award.

8. It is stated by the learned counsel for the respondents that a sum of Rs. 11,03,323/- is kept in revenue deposit pursuant to the award passed in Award No.6 of 1994 dated 24.05.1994. This deposit was also made long before the filing of the writ petition. When the respondents are unable to identify the rightful owners to give compensation, the Act contemplates at the instance of private party or at the instance of Land Acquisition Officer to refer the dispute under Section 30 of the Act. In the common Typed Set of papers filed by petitioner's counsel, the Notification under Section 4(1) and the Declaration under Section 6 are enclosed. Petitioner's name was not included in 4(1) notification. But declaration under Section 6 published on 10.06.1992 shows the name of petitioner as owner of an extent of 0.03.0 hectares (7 cents). In the award, it is recorded that the petitioner did not appear for enquiry. A sum of Rs.10,970/- had been awarded to the petitioner. The petitioner has filed this writ petition nearly 19 years after the award. The petitioner can seek reference under Section 18 of the Act upon service of notice of award. The petitioner has filed the copy of the award in this proceeding and hence the petitioner had knowledge of the award even in 2013. In these circumstances,

this Court is unable to give any relief to the petitioners.
Hence, this writ petition is dismissed. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Secretary to Government,
Housing and Urban Development,
Fort.St.George, Madras-9.

2.The Special Tasildhar,
Land Acquisition,
Hosur.

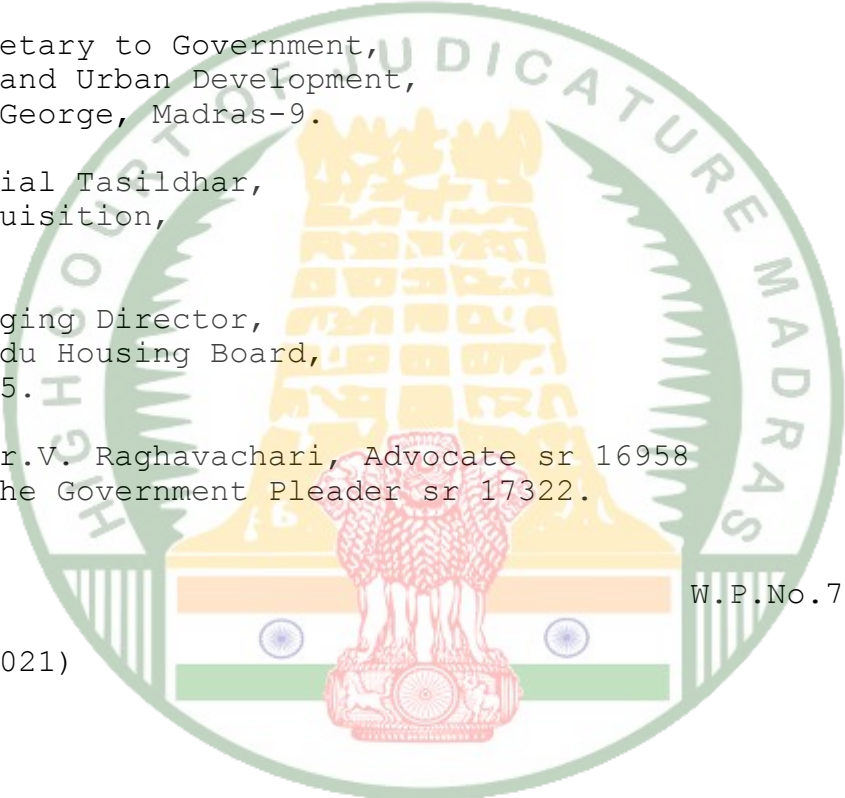
3.The Managing Director,
Tamil Nadu Housing Board,
Madras-35.

+1 CC to Mr.V. Raghavachari, Advocate sr 16958

+1 CC to The Government Pleader sr 17322.

AAB (CO)
SP(19/05/2021)

W.P.No.7136 of 2013



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