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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.21048 and 21049 of 2018
and
W.M.P.Nos.24699 and 24700 of 2018

Selvaraj

... Petitioner
(in WP.No.21048/2018)

Sarojiniammal

... Petitioner
(in WP.No.21049/2018)

vs.

1.The Secretary to Government of Tamil Nadu
Housing and Urban Development,
Secretariat, Fort St. George, Chennai - 9.

2.The District Collector
Collector Office,
Tiruvellore.

3.The Special Deputy Collector,
Land Acquisition Cell,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

4.The Tahsildar,
Ponneri Taluk Office,
Ponneri - 601 204.

5.The Chairman,
Tamil Nadu Slum Clearance Board,
Chepauk, Chennai - 600 005.

...Respondents
(in both WPs)

PRAYER in W.P.No.21048 of 2018: Writ Petition filed under Article 226 of the Constitution of India, in the nature of Writ of Declaration, declaring that the Acquisition proceedings initiated under Land Acquisition Act, 1894 is lapsed under Section 24(2) of "Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" in so far as the petitioner's Land in Survey No.317/4, measuring 42 cents, Edayanchavadi Village, Ponneri Taluk, Tiruvellore District, is null and void and consequently permitted the petitioner to retain the possession of the said property.



PRAYER in W.P.No.21049 of 2018: Writ Petition filed under Article 226 of the Constitution of India, in the nature of Writ of Declaration, declaring that the Acquisition proceedings initiated under Land Acquisition Act, 1894 is lapsed under Section 24(2) of "Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" in so far as the petitioner's Land in Survey No.317/2 (Old Survey No.135/2) measuring 44 cents, Edayanchavadi Village, Ponneri Taluk, Tiruvellore District, is null and void and consequently permitted the petitioner to retain the possession of the said property.

For Petitioner : Mr.K.Thenrajan
(in both WPs)

For R1, R2 and R4:Mr.M.R.Gokul Krishnan
Government Advocate
(in both WPs)

For R5 : Mr.S.Prabhu
Standing Counsel
(in both WPs)

For R3 : No Appearance
(in both WPs)

C O M M O N O R D E R

These writ petitions are filed to declare that the acquisition proceedings initiated under Land Acquisition Act, 1894 is lapsed under Section 24(2) of "Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" in so far as the petitioners Lands in Survey Nos.317/4 and 317/2, measuring 42 and 44 cents respectively, Edayanchavadi Village, Ponneri Taluk, Tiruvellore District, is null and void and consequently permitted the petitioners to retain the possession of the said property.

2. The case of the petitioners is that, the respective lands in question, which were originally belonging to the petitioners have been acquired long back by the respondents for public purpose.

3. After acquiring the lands as per the procedure established under the Land Acquisition Act, award enquiry was conducted, award was passed and the award amount also has been deposited or paid, even though it was claimed by the petitioners that, as against the said award, original petitions were filed by the similarly placed land owners for enhancement of compensation, and the same are pending before the concerned Court.



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4. Be that as it may. The land acquisition proceedings has come to a conclusion as some of the similarly placed land owners have challenged the land acquisition proceedings before this Court in the earlier round of litigation unsuccessfully.

5. At this juncture, now the grievance of the petitioners is that, the lands in question which were acquired from the petitioners were unutilized for the purpose for which it was actually acquired and the same has been handed over to various authorities and at last it has come to the hands of the fifth respondent viz., Tamil Nadu Slum Clearance Board, and the said authority also has not utilized the acquired lands for the purpose of housing and still vacant lands are there. Therefore, the unutilized lands can be re-conveyed to the petitioners and in order to get the re-conveyance, the petitioners have filed the present writ petitions with the aforesaid prayer.

6. Heard Mr.K.Thenrajan, learned counsel appearing for the petitioners in all the writ petitions, who would submit that, though the land acquisition proceedings has been concluded and the lands in question have been acquired long back by the respondents for public purpose, the purpose for which the lands were acquired has not been undertaken fruitfully and subsequently, the lands have been handed over to various authorities and at last it has come to the hands of the fifth respondent, who in turn, wants to utilize the lands for the construction of houses, where still some portion of the land is unutilised, which can be re-conveyed to the petitioners. Therefore, the learned counsel seeks the indulgence of this Court to permit the petitioners to retain the possession of the lands in question.

7. However, Mr. R.Gokul Krishnan, learned Government Advocate appearing for the first, second and fourth respondents and Mr.S.Prabhu, learned Standing Counsel for the fifth respondent would submit that, the lands in question have admittedly been acquired long back by proper land acquisition proceedings. Though it was challenged at some point of time by filing writ petitions before this Court, the similarly placed land owners have become unsuccessful in such challenge and thereafter, the land acquisition proceedings has come to its logical conclusion, where the lands acquired were taken over possession by the acquiring authority and handed over to the required authority and the lands in question have been properly utilised for public purpose mainly for housing purposes.

8. The learned counsel would submit that, the proposal to construct 3360 EWS houses in the 19.75 Acres of land handed over to the fifth respondent, is already in progress and in this



regard, there has been demand from 18,000 people and about 250 people have paid an advance amount of Rs.10,000/- each even before the commencement of the project.

9. As per the latest instructions, according to the learned Standing Counsel for the fifth respondent, 80% of the construction of 3360 EWS houses as proposed, has already been completed and only the rest of the construction work is left out, which also would be completed soon. Therefore, the question of keeping the land unutilized as claimed by the petitioners does not arise. Instead, the entire lands have been properly utilized for public purpose as stated above.

10. Insofar as the claim made by the petitioners that, some area of the lands acquired have been unutilized, where trees and bushes are there and some area is left out for burial ground, that also has been submitted by the learned Standing Counsel for the fifth respondent that, the burial ground has been earmarked only for the said purpose and apart from that, no other area has been left out in the lands acquired. By making these submissions, the learned Standing Counsel would submit that, absolutely there is no point made out in the claim made by the petitioners and the plea raised by the petitioners can very well be rejected as it deserves to be rejected.

11. I have considered the rival submissions made on behalf of the petitioners and the respondents and also perused the materials placed on record.

12. It is the definite stand taken by the respondents, especially the fifth respondent, who is the beneficiary, in whose favour the land in question has been entrusted, where, the proposal for construction of 3360 EWS houses had been approved and accordingly construction work is in progress, where, as claimed by the respondents, 80% of the construction work had already been completed and the remaining construction would be over soon.

13. When that being the position, it is the claim of the petitioners that the lands have not been utilized for several years since the lands have been acquired by proper land acquisition proceedings, which has ended in favour of the land acquisition authorities. Even though a challenge was made in this regard by the similarly placed land owners and subsequently award amount also has been paid or deposited, and in this regard for enhancement of compensation, the similarly placed land owners have approached the Court by filing original petitions and the same are pending consideration.



14. Be that as it may. If at all the petitioners succeed in future for getting enhancement of award amount, that is upto them to get it and in this regard that would not in any manner hamper the progress undertaken by the present respondents i.e., the authorities who have utilized the lands in question for public purpose.

15. When that being so, the question of considering the request made by the petitioners to permit them to retain the possession of the lands in question does not arise, in view of the fact that, not only the lands in question have been utilized for public purpose, for which it was acquired, but also 80% of the lands acquired have been utilized by constructing dwelling houses, which is under progress.

16. In that view of the matter, this Court feels that all these writ petitions do not deserve to be considered for giving a declaration as claimed by the petitioners. Therefore, these writ petitions fail and accordingly they are dismissed. Consequently, the connected miscellaneous petitions are closed. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

- 1.The Secretary to Government of Tamil Nadu
Housing and Urban Development,
Secretariat, Fort St. George, Chennai - 9.
- 2.The District Collector
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Tiruvellore.
- 3.The Special Deputy Collector,
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- 4.The Tahsildar,
Ponneri Taluk Office,
Ponneri - 601 204.



5.The Chairman,
Tamil Nadu Slum Clearance Board,
Chepauk, Chennai - 600 005.

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+1 CC to Mr.S.Prabhu, Advocate sr 51856
+1 CC to The Government Pleader sr 51975.

W.P.Nos.21048 and 21049 of 2018

GPL (CO)
SP (10/11/2021)