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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2021

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MS.JUSTICE R.N.MANJULA

W.A.No.580 of 2018
and C.M.P.No.5573 of 2018

Shanthakumar

...Appellant

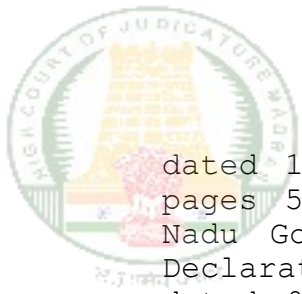
Vs

1. The State of Tamil Nadu
Rep. by its Secretary,
Housing and Urban Development,
Fort St.George,
Chennai.
 2. The Chairman,
Tamil Nadu Housing Board,
Rep. by its Managing Director,
Anna Salai, Nandanam,
Chennai - 18.
 3. The Special Thasildhar (Land Acquisition),
Unit III,
Tamil Nadu Housing Board Schemes,
Nandanam, Chennai - 18.
 4. Sri Ramachandra Educational and Health Trust,
Rep. by its Managing Trustee,
Mr.V.R.Venkatachalam,
No.25, Sir C.V.Raman Road,
Alwarpet, Chennai - 18
(R4 amended vide order dated 12.06.2018
made in CMP No.7010/18 in WA No.580/2018)
- ...Respondents

Appeal filed under Clause 15 of Letters Patent against the order dated 02.02.2018 made in W.P.No.2297 of 2018.

Prayer in WP. No. 2297/2018 dated 02/02/2018:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the Section 4(1) Notification vide G.O.Ms.1096 (Housing and Urban Development)



dated 17.07.1978 published as Notification No:II(2)/HUD/3911/78 pages 5 to 9 of Supplement to Part II Section 2 of the Tamil Nadu Government gazette dated 09.08.1978 read with Section 6 Declaration vide G.O.Ms.No.667 Housing and Urban Development dated 06.08.1981 passed by the first respondent in respect of the petitioner's land, comprised in S.No.102/5, at Kamaraj Nagar, South Avenue, Thiruvannamiyur, Chennai - 600 041 Thiruvannamiyur Village, Chennai Corporation limits measuring 71 cents, quash the same and consequently direct the respondents to restore possession of the said land to the petitioner and the other legal heirs of Sriram Chettiar.

For Appellant : Mr.K.S.Kumar
For Respondents : Mr.D.Ravichander,
Government Counsel for R1 and R3
Dr.R.Gowri for R2
No appearance for R4

JUDGMENT

(Delivered by M.M.SUNDRESH, J.)

This appeal has been preferred by the appellant laying a challenge to the land acquisition proceedings initiated and concluded by way of declaration under Section 6 in the Government Order in G.O.Ms.No.667, Housing and Urban Development Department, dated 06.08.1981. The award was passed on 23.09.1986. Notices have been issued to the purchasers of land from the father of the appellant in whose name the revenue records stood at the relevant point of time. An allotment was also made in favour of the fourth respondent by the Government Order in G.O.Ms.No.208 Housing and Urban Development Department, dated 12.06.1998. Sale deed was executed in the year 2014.

2. The appellant received reply from the second respondent on 25.06.2001 stating that way back in the year 1981, the father of the appellant sold the property to seven persons and they have been given compensation in Award No.3 of 1986 dated 23.09.1986. Therefore, his request cannot be considered.

3. Not satisfied with the said reply, the appellant filed a suit in O.S.No.8017 of 2006 on the file of the City Civil Court, Chennai. In the said suit, the purchasers from the father of the appellant and the Tamil Nadu Housing Board were arrayed as defendants. The suit was dismissed on 28.01.2014 and the same was confirmed in A.S.No.272 of 2014 by judgment dated 17.02.2017.

4. Thereafter in the year 2018, the appellant filed the present writ petition challenging the acquisition proceedings as aforesaid. The learned Single Judge rightly dismissed the writ petition and hence the present appeal.



5. Learned counsel appearing for the appellant submits that mere delay and laches would not arise as a bar. There is no notice issued to the father of the appellant.

6. We do not find absolutely any merit in this appeal. In the year 1981, the father of the appellant alienated the property. In the award proceedings, the purchasers were put on notice and an award was passed. The declaration was passed in the year 1981. The appellant sought to re-agitate the same by way of a notice to the second respondent who being the requisition body became the absolute owner and after the completion of the proceedings, a reply was given on 09.10.2001.

7. The appellant was ill-advised to file a suit in the year 2006 against the Tamil Nadu Housing Board and the persons who purchased the property from his father. The suit and the appeal were dismissed.

8. Considering the above, we do not find any merit in this appeal. Certainly, the issue qua the delay, laches and acquiescence would come into play in a land acquisition proceedings. The appellant was aware of the proceedings as could be seen from the facts narrated above. Even after the Award was passed, no attempt was made to challenge it. The property stood in the name of his father, who alienated it in favour of various persons, arrayed as respondents before us. Now, title has passed on. The averment in the plaint and the communications sent by the appellant would indicate the fact that he was aware of the Award having been passed decades ago. The appellant does not even have the title on two grounds, namely, the acquisition proceedings and the sale having been effected by his father.

9. Therefore, looking from any perspective, we do not find any reason to interfere with the order passed by the learned Single Judge and the writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

mmi/ssm
To

1. The Secretary,
Housing and Urban Development,
Fort St.George,Chennai.



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2. The Chairman,
Tamil Nadu Housing Board,
Rep. by its Managing Director,
Anna Salai, Nandanam, Chennai - 18.

3. The Special Thasildhar (Land Acquisition),
Unit III, Tamil Nadu Housing Board Schemes,
Nandanam, Chennai - 18.

+1 CC to M/s.K.S. Kumar, SR 30355.

+1 CC to The Government Pleader, Sr. 30847.

W.A.No.580 of 2018

AD(CO)
LS(28/07/2021)