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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.08.2021

Coram:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos. 28336 & 36726 of 2016 and 2871 & 2872 of 2018  
and  
WMP Nos.24452 of 2016 & 3546 to 3548 of 2018

W.P.Nos. 28336 & 36726 of 2016

T.Emmanuel Rajendran ..... Petitioner in both W.Ps

Vs.

1. Government of Tamil Nadu,  
rep by its Secretary,  
Housing & Urban Development Department,  
Fort St.George, Chennai - 600 009.
2. The Tamil Nadu Housing Board,  
Rep. by its Managing Director,  
Anna Salai, Chennai - 600 035.
3. The Executive Engineer,  
Tamil Nadu Housing Board,  
Besant Nagar Division,  
48, Dr. Muthulakshmi Salai,  
Adayar, Chennai - 600 020.
4. The Director Revenue Officer-Planning  
Tamil Nadu Housing Board,  
493, Anna Salai, Chennai - 600 035.

... Respondents in both W.Ps

W.P.Nos. 2871 & 2872 of 2018

- 1.K.Mohan Raj
- 2.M.Sujatha

... Petitioners in both W.Ps

Vs.

1. Government of Tamil Nadu,  
rep by its Secretary,  
Housing & Urban Development Department,  
Fort St.George, Chennai - 600 009.



2. The Tamil Nadu Housing Board,  
Rep. by its Managing Director,  
Anna Salai, Chennai - 600 035.

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3. The Executive Engineer & Admin. Officer ,  
Tamil Nadu Housing Board,  
Besant Nagar Division,  
48, Dr. Muthulakshmi Salai,  
Adayar, Chennai - 600 020.
4. The District Revenue Officer-Planning  
Tamil Nadu Housing Board,  
493, Anna Salai, Chennai - 600 035.

... Respondents in both W.Ps

Prayer in W.P.No.28336 of 2016 : Writ Petition filed under Article 226 of the Constitution of India to issue a writ of declaration declaring that the acquisition of the petitioner's land measuring to an extent of 8.5 cents (3600 sq.ft) comprised in S.No.232/1C, Kottivakkam Village, Kancheepuram District and bearing Door No.2/125, Rani Street, Kalyani Nagar, Kottivakkam, Chennai - 600 041 pursuant to the 4(1) Notification bearing G.O.Ms.No.36 (Housing and Urban Development) Department dated 19.02.1975 and 6 Declaration bearing G.O.Ms.No.595 (Housing and Urban Development) Department dated 21.03.1978 and published on 23.03.1978 has lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30/2013).

Prayer in W.P.No.36726 of 2016 : Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorari calling for the records of the fourth respondent herein culminating with the Board's letter bearing No.NA1(5) 28280/94 dated 15.07.2016 and quash the same.

Prayer in W.P.No.2871 of 2018 : Writ Petition filed under Article 226 of the Constitution of India to issue a writ of declaration declaring that the acquisition of the petitioner's land measuring to an extent of 4000 sq.ft comprised in S.No.232/1C, Kottivakkam Village, Kancheepuram District and bearing Door No.2/122, 3<sup>rd</sup> Rani Street, Kalyani Nagar, Kottivakkam, Chennai - 600 041 pursuant to the 4(1) Notification 19.02.1975 and 6 Declaration bearing G.O.Ms.No.595 dated 21.03.1978 and published on 23.03.1978 has lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30/2013).



Prayer in W.P.No.2872 of 2018 : Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorari calling for the records of the third respondent herein culminating with the Board's letter bearing No.BN/HS/4067-K/87-1 dated 09.12.2016 and quash the same.

In all W.Ps

|                 |   |                                              |
|-----------------|---|----------------------------------------------|
| For Petitioners | : | Mr.M.Vaidyanathan                            |
| For R1 & R4     | : | Mr.M.R.Gokul Krishnan<br>Government Advocate |
| For R2 & R3     | : | Mr.M.Baskar<br>Standing Counsel              |

#### COMMON ORDER

W.P.No.28336 of 2016 has been filed to issue a writ of declaration declaring that the acquisition of the petitioner's land measuring to an extent of 8.5 cents (3600 sq.ft) comprised in S.No.232/1C, Kottivakkam Village, Kancheepuram District and bearing Door No.2/125, Rani Street, Kalyani Nagar, Kottivakkam, Chennai - 600 041 pursuant to the 4(1) Notification bearing G.O.Ms.No.36 (Housing and Urban Development) Department dated 21.03.1978 and published on 23.03.1978 has lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30/2013).

2. W.P.No.36726 of 2016 has been filed to issue a writ of certiorari calling for the records of the fourth respondent herein culminating with the Board's letter bearing No.NA1(5) 28280/94 dated 15.07.2016 and quash the same.

3. The case of the petitioner is that the petitioner purchased the property comprised in old No.141, New No.111 situated at Kottivakkam Village, Saidapet Taluk, Chennai District, to an extent of 8.25 cents by a registered sale deed dated 07.11.1988 vide document No.3689 of 1988 from one, L.Venkatesan. In the said sale deed, there is a recital that whereas the said lands were around 1975 notified for acquisition by the Government of Tamil Nadu for the Housing Board and the acquisition proceedings have lapsed as the passing of the award under Land Acquisition Act was not done in the time stipulated. Believing the said representation, the petitioner purchased the property. Thereafter, they constructed a residential house and



living there. The petitioners were also issued patta.

4. Heard, Mr.M.Vaidyanathan, the learned counsel appearing for the petitioner, Mr.M.R.Gokul Krishnan, Government Advocate appearing for the respondents 1 and 4 and Mr.M.Baskar, Standing Counsel appearing for the respondents 2 and 3.

5. According to the petitioner, a notification under Section 4(1) of the Land Acquisition Act, 1894 (herein after called as "the said Act"), issued on 19.02.1975 proposing to acquire to an extent of 10.33 acres comprised in S.No.232, Kottivakkam Village, while belonged to the petitioner's vendor. Thereafter, on 23.03.1978, a declaration under Section 6 of the said Act made by G.O.Ms.No.595, dated 21.03.1978. In fact, his vendor already filed a Writ Petition before this Court in W.P.No.10351 of 1982 and the same was allowed on 18.01.1988 in respect of 6 acres. Likewise, he also filed another writ petition in W.P.No.7645 of 1986 in respect of the remaining 4 acres 33 cents of which the petitioner purchased part of the land. However, the said writ petition was dismissed on the ground of latches. It went up to the Hon'ble Supreme Court of India in C.A.No.1897 of 1998 and the same was also dismissed on 31.03.2004 and observed that the respondents are at liberty to take possession of the remaining land including the portions on which other structures stand (including the outhouse). Before the part with the judgment that we have not directed release of the portions, which have been sold off by the appellant. The Government will be at liberty to take possession of even those portions.

6. Thereafter, the petitioner was issued notice under Section 47 of the said Act, alleging that the petitioner is in unauthorized occupation and the petitioner and his vendor were in unauthorized occupation to an extent of 4.33 acres comprised in S.No.232/2C2. Therefore, the petitioner filed writ petition challenging the said notice in W.P.No.27597 of 2005. This Court directed the respondent to consider the representation dated 11.07.2005. In this regard, the Division Bench of this Court by an order dated 01.11.2006 issued the following directions :-

"Petitioner is permitted to give a representation to the Government seeking either exclusion of the land purchased by him from the acquisition proceedings itself or for re-conveyance on or before 14.11.2006 ; The Government shall consider the said request if it is not disabled to do so by any order of Court and pass orders in accordance with law within 14.05.2007, till such time, the Government considers the petitioner's



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representation and pass order, the petitioner shall not be dispossessed from the property, the details of which is given in the writ petition ; as a consequence thereof, the proceedings dated 07.05.2005 on the file of the third respondent is quashed with liberty to renew the action depending on the outcome of the decision to be taken by the Government."

7. In view of the above observation made by this Court, the petitioner submitted a representation on 10.11.2006. While pending for consideration, the Special Tahsildar directed the petitioner to handover the possession of the property. The third respondent by a communication dated 11.05.2016 called upon the petitioner to convey his consent for payment of a sum equivalent to the guideline value prevailing on the said date i.e., 11.05.2016. The petitioner sent a reply stating that he had no resources for meeting the demand made by the third respondent herein. Therefore, by the impugned order rejected the petitioner's offer. The petitioner's reply revealed that as recommended by the high level committee that requested to release the property purchased by the petitioner on payment of guideline value prevailing together with interest or on payment of land value as fixed by the Government.

8. The petitioner also raised grounds under Section 24(2) of the new Act (i.e., Act 30 of 2013), since it mandates that the land acquisition proceedings shall have deemed to have lapsed if 5 years or more prior to the commencement of the Act 30 of 2013, physical possession of the land has not been taken. However, the petitioner in W.P.No.2871 of 2018 has agreed to pay the cost fixed by the second respondent by the reply letter dated 28.07.2016 and agreeing that, they are ready to pay the land cost and also requested to surrender the portion of the land for widening the existing 17 feet road.

9. Considering the above, the impugned order dated 15.07.2016 passed by the second respondent in NA1(5)28280/94, is hereby set aside on condition that the petitioner shall pay the land cost as per the guideline value of the year 1988 with interest at the rate of 6% per annum, after deducting the compensation amount, which was deposited in the Court in respect of the subject property within a period of four weeks from the date of receipt of a copy of this order.

10. On receipt of such payment, the second respondent is directed to release the subject property i.e., the land comprised in S.No.232/1C ad-measuring to an extent of 8.5 acres (3600 sq.ft.), Kottivakkam Village, Kancheepuram District and bearing Door No.2/125, Rani Street, Kalyani Nagar, Kottivakkam,



Chennai- 600 041, forthwith in favour of the petitioner.

11. It is made clear that the award amount for the subject property was already deposited by the second respondent. The petitioner is permitted to withdraw the same from the Court deposit. Consequently, the authority concerned is directed to transfer the patta in favour of the petitioner and mutate the revenue records in favour of the petitioner.

12. With the above directions, the W.P.No.28336 of 2016 stands allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

13. In view of the order passed in W.P.No.28336 of 2016, the W.P.No.36726 of 2016 is dismissed. No costs.

W.P.No.2871 & 2872 of 2018

14. W.P.No.2871 of 2018 has been filed to issue a writ of declaration declaring that the acquisition of the petitioner's land measuring to an extent of 4000 sq.ft comprised in S.No.232/1C, Kottivakkam Village, Kancheepuram District and bearing Door No.2/122, Rani Street, Kalyani Nagar, Kottivakkam, Chennai - 600 041 pursuant to the 4(1) Notification bearing G.O.Ms.No.595 dated 21.03.1978 and published on 23.03.1978 has lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30/2013).

15. W.P.No.2872 of 2018 has been filed to issue a writ of certiorari calling for the records of the third respondent herein culminating with the Board's letter bearing No.BN/HS/4067-K/87-1 dated 09.12.2016 and quash the same.

16. The second respondent filed a counter stating that

"I respectfully submit that the Tamil Nadu Housing Board had sent Letter No.L.A1(5)/28280/97, dated 15.07.2016 to all the subsequent purchasers to pay the Land Cost and portion of the land for widening the road from 17 feet road to 33 feet road. Out of 3 persons, two subsequent purchasers are namely (1) Mr.K.Mohan Rah & Mrs.Sujatha (2) Mr.M.Gurunathan & Mrs.Sharmila alone have agreed for the cost fixed by the Tamil Nadu Housing Board vide Resolution dated 26.02.2016 and replied letter dated 28.07.2016 & 29.07.2016 agreeing that they are ready to pay the land cost and also agreed to surrender the portion of the land for widening the existing 17 feet road."

17. Considering the said submission, the impugned order



dated 09.12.2016 passed by the second respondent in No.BN/HS/4067-K/87-1, is hereby set aside on condition that the petitioners shall pay the land cost as per the guideline value of the year 1988 with interest at the rate of 6% per annum, after deducting the compensation amount, which was deposited in the Court in respect of the subject property within a period of four weeks from the date of receipt of a copy of this order. On receipt of such payment, the second respondent is directed to release the subject property i.e., the land comprised in S.No.232/1C ad-measuring to an extent of 4000 sq.f.t Kottivakkam Village, Kancheepuram District and bearing Door No.2/122, Rani Street, Kalyani Nagar, Kottivakkam, Chennai - 600 041, forthwith in favour of the petitioners.

18. It is made clear that the award amount for the subject property was already deposited by the second respondent. The petitioners are permitted to withdraw the same from the Court deposit. Consequently, the authority concerned is directed to transfer the patta in favour of the petitioners and mutate the revenue records in favour of the petitioners. The petitioners shall surrender the portion of the land for widening of the existing road from 13 feet to 33 feet.

19. With the above directions, the W.P.No.2871 of 2018 stands allowed. Consequently, connected Miscellaneous Petitions are closed. No costs.

20. In view of the order passed in W.P.No.2871 of 2018, the W.P.No.2872 of 2018 is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-  
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,  
Housing & Urban Development Department,  
Fort St.George, Chennai - 600 009.



2. The Managing Director,  
Tamil Nadu Housing Board,  
Anna Salai, Chennai - 600 035.

3. The Executive Engineer,  
Tamil Nadu Housing Board,  
Besant Nagar Division,  
48, Dr. Muthulakshmi Salai,  
Adayar, Chennai - 600 020.

4. The Director Revenue Officer-Planning  
Tamil Nadu Housing Board,  
493, Anna Salai, Chennai - 600 035.

+4ccs to Mr.M.Vaidhiyanathan, Advocate, S.R.Nos.43355, 43356

+1cc to the Government Pleader, S.R.Nos.43040, 43012, 42995

W.P.Nos. 28336 & 36726 of 2016 and  
2871 & 2872 of 2018  
and  
WMP Nos.24452 of 2016  
& 3546 to 3548 of 2018

SRA(CO)  
SU(27/09/2021)