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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.06.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.12538 of 2021

Church of South India Trust Association,
(CSITA) of CSI Diocese Coimbatore
CSI Christ Church Vadavalli Pastorate
Rep. by its
Chairman cum Presbyter
Rev.Deiva Dhayavu Kirubanithi.D
C/o.Mr.S.Mohandoss, 22 Tauntsa Nagar,
Bommannampalayam,
Coimbatore- 641 046

... Petitioner

..Vs..

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Housing & Urban Development Department,
Fort St. George,
Chennai - 600 009.
2. The Managing Director,
Tamil Nadu Housing Board,
493, Anna Salai,
Nandanam, Chennai - 600 035.
3. The Executive Engineer
Tamil Nadu Housing Board,
Administrative Office,
Tatabad,
Coimbatore.
4. The Revenue Divisional Officer,
Coimbatore (South)
State Bank Road,
Coimbatore.
5. The District Collector,
Coimbatore.
6. The Special Tahsildar
(Land Acquisition)
Tamil Nadu Housing Board,
Tatabad, Coimbatore.



7. The Tahsildar - Perur Taluk,
44-C, Siruvani Main Road,
Perur, Coimbatore.

... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent herein to delete the classification of the lands of an extent of 32 Cents in Plot Nos.30 to 37, in S.No.129/1pt, Veerakeralam Village Perur Taluk Coimbatore and carry out mutation of revenue records by implementing the orders in letter No.39023/S2/87-6 dated 22.08.1988 of the first respondent exempting the lands from acquisition proceedings.

For Petitioner : Mr.AR L. Sundaresan
Senior Counsel
For M/s. Al.Ganthimathi

For Respondents: Mr.S.John J.Rajasingh
Government Advocate,
Government of Tamil Nadu
For RR1, 4 to 7

O R D E R

(The case has been heard through video conferencing)

The relief sought for in the writ petition is to direct the 1st respondent to delete the classification of the lands of an extent of 32 Cents in Plot Nos.30 to 37, in S.No.129/1pt, Veerakeralam Village, Perur Taluk, Coimbatore and carry out mutation of revenue records by implementing the orders in letter No.39023/S2/87-6 dated 22.08.1988 of the first respondent exempting the lands from acquisition proceedings.

2. The cause established for filing of the writ petition is the letter dated 22.08.1998 and based on the said letter, the petitioner seeks the relief to direct the 1st respondent to delete the classification of the lands and carry out mutation of revenue records. The fact remains that the land was acquired a long back prior to passing of order on 22.08.1988.

3. The learned senior counsel appearing on behalf of the writ petitioner mainly contended that the letter of the year 1988 must be implemented in its letter and spirit and therefore, the subsequent orders cannot be a ground to reject the claim of the petitioner. The non implementation of the letter dated 22.08.1988 is a cause for the petitioner to pursue the matter and therefore, the request of the petitioner through representation is to be considered.



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for an extent of 3000 sq.ft and for the remaining lands, the petitioner has fenced by means of compound wall. Based on the fact that the lands in Survey No.129/1 measuring 9.26 Acre in Veerakeralam village, Coimbatore District Award was passed, during 1986, Award amount was deposited in the Court, possession taken over by Tamil Nadu Housing Board on 28.01.2008 and the lands are very much essential for implementation of Scheme, it is requested to reject the re-conveyance request of the petitioner Rev.Kirubanithi for the above said lands and pass appropriate orders.

4.In this connection in Civil Appeal Nos.6342-6343 of 2012 (W.A.Nos.805 and 806 of 2011) filed by V.Chandrasekaran and another against the impugned judgment and order dated 24.01.2012, passed by the High Court of Judicature at Madras in Writ Appeal Nos.805-806 of 2011, by which, the Division Bench reversed the judgment and order of the learned Single Judge, dated 1.11.2010 passed in relation to land acquisition proceedings, the Supreme Court of India in its order, dated 18th September 2012, among other things has ordered as follows:

"In the instant case, as the original vendors i.e., vendors of the first sale were not vested with any title over the said land, the transfer by them, was itself void and all subsequent transfers would also, as a result remain ineffective and unenforceable in law.

The land once vested in the State, free from all encumbrances cannot be divested"

5.The Government after careful examination with relevant records, your request for re-conveyance of lands in S.No.129/1 measuring 9.26 acre in Veerakeralam village, Coimbatore District is hereby rejected."

The reconveyance sought for by the petitioner was also rejected by the Government in the above order.

6. The learned senior counsel for the petitioner is of the opinion that reconveyance is not sought for in the present writ petition and the relief sought for is to consider the request of the writ petitioner to delete the classification of lands and carry out mutation of revenue records based on letter dated 22.08.1988.



7. This Court is of the considered opinion that 33 years lapsed from the date of issuance of a letter by the Government in the year 1988. Several development took place. Admittedly, the land was acquired prior to the year 1988 and it was allotted to the Housing Board. The Housing Board also rejected the claim of the writ petitioner. The Government also rejected the application for reconveyance. Thus, the petitioner has made an attempt to pursue the matter one way or other at this length of time and this apart, mere consideration to delete the classification of lands at this juncture cannot be ordered by this Court. The property stands in the name of the Housing Board as per revenue records as pointed out by the VAO concerned. The NOC sought for by the petitioner was also rejected. The request for reconveyance made by the petitioner before the Government was also not considered. Thus, the relief sought for to delete the classification of lands and to carry out mutation of revenue records, which is consequential, cannot be granted by this Court. This being the fact established, the writ petitioner has not established any right to consider the relief as sought for in the present writ petition. Accordingly, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

rpl/vri

To

1. The Secretary to Government,
Housing & Urban Development Department,
Fort St. George,
Chennai - 600 009.
2. The Managing Director,
Tamil Nadu Housing Board,
493, Anna Salai,
Nandanam, Chennai - 600 035.
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(Land Acquisition)
Tamil Nadu Housing Board,
Tatabad, Coimbatore.

7. The Tahsildar - Perur Taluk,
44-C, Siruvani Main Road,
Perur, Coimbatore.

+lcc to Mr.AL.Ganthimathi, Advocate, S.R.No. 27688

+lcc to the Government Pleader, S.R.No. 27653

WP No.12538 of 2021

AK II(CO)
GN(20/07/2021)