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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.NO.21347 OF 2017

AND

W.M.P.NO.22280 OF 2017

1. Amudha
2. E.Rajendran ... Petitioners

.Vs.

1. The State of Tamil Nadu,
Rep. by the Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai - 600 009.

2. The Member-Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
Egmore, Chennai - 8.

3. The Managing Director,
Tamil Nadu Slum Clearance Board,
Kamarajar Salai,
Chennai - 5. ... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India, in the nature of Writ of Mandamus, directions in the nature of writ to reconvey the petitioners' land in S.No.317/1 with extent of 0.13.0 hectares situated at Eachankuzhi Village, H/o.Edayanchavadi Village, Ponneri Taluk, Thiruvallur District to the petitioners which is under the subject matter of land acquisition vide Declaration G.O.Ms.No.91 dated 06.03.1992 on the file of first respondent, by considering the petitioners' representation dated 31.05.2017.

For Petitioner : Mr.T.P.Sekar

For R1 : Mr.M.R.Gokul Krishnan
Government Advocate



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For R2 : Mr.Karthik Rajan
Standing Counsel

For R3 : Mr.S.Prabhu
Standing Counsel

O R D E R

This writ petition is filed to re-convey the petitioners' land in S.No.317/1 with extent of 0.13.0 hectares situated at Eachankuzhi Village, H/o.Edayanchavadi Village, Ponneri Taluk, Thiruvallur District to the petitioners which is under the subject matter of land acquisition vide declaration in G.O.Ms.No.91, Housing and Urban Development, UD.III (1), dated 06.03.1992 on the file of the first respondent, by considering the petitioners' representation dated 31.05.2017.

2. The case of the petitioners is that, the land in question, which was originally belonging to the petitioners has been acquired long back by the respondents for public purpose.

3. After acquiring the land 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.

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 land in question which was acquired from the petitioners was 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 third respondent viz., Tamil Nadu Slum Clearance Board and the said authority also has not utilized the acquired land 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 given a representation and since the said representation has not been considered, the petitioners have filed the present writ petition with the aforesaid prayer.



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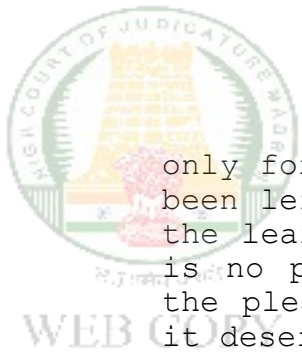
6. Heard Mr.T.P.Sekar, learned counsel appearing for the petitioners, who would submit that, though the land acquisition proceedings has been concluded and the land in question has been acquired long back by the respondents for public purpose, the purpose for which the land was acquired has not been undertaken fruitfully and subsequently, the land has been handed over to various authorities and at last it has come to the hands of the third respondent, who in turn, wants to utilize the land 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 give suitable direction to the respondents to consider the representation of the petitioners dated 31.05.2017 within a stipulated time frame.

7. However, Mr.M.R.Gokul Krishnan, learned Government Advocate appearing for the first respondent and Mr.S.Prabhu, learned Standing Counsel for the third respondent would submit that, the land in question has 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 petitioners / their predecessors in title have become unsuccessful in such challenge and thereafter the land acquisition proceedings has come to its logical conclusion, where the land acquired was taken over possession by the acquiring authority and handed over to the required authority and the land in question has 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 third 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 third 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 property utilized for public purpose as stated above.

10. Insofar as the claim made by the petitioners that, some area of the land acquired has 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 third 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 land 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 third 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 land has not been utilized for several years since the land has 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 land owners and subsequently award amount also has been paid or deposited, and in this regard for enhancement of compensation, the petitioners have approached the Court by filing original petitions and the same is 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 hamper the progress undertaken by the present respondents i.e., the authorities who have utilized the land in question for public purpose.

15. When that being so, the question of considering the request made by the petitioners to re-convey the land as claimed in their representation dated 31.05.2017 does not arise, in view of the fact that, not only the land in question has been utilized for public purpose, for which it was acquired, but also 80% of the land has been utilized by constructing dwelling houses, which is under progress.

16. In that view of the matter, this Court feels that this writ petition do not deserve to be considered for giving a direction by way of Mandamus as claimed by the petitioners. Therefore, this writ petitions fail and accordingly it is



dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
The State of Tamil Nadu,
Housing and Urban Development Department,
Secretariat, Chennai - 600 009.
2. The Member-Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
Egmore, Chennai - 8.
3. The Managing Director,
Tamil Nadu Slum Clearance Board,
Kamarajar Salai,
Chennai - 5.

+lcc to Mr.T.P.Sekar, Advocate, S.R.No.51800
+lcc to the Government Pleader, S.R.No.51971

W.P.NO.21347 OF 2017

KSM(CO)
PBS/01/11/2021
PBS/12/11/2021