



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2021

CORAM

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. No. 24453 of 2017
and W.M.P. No.25839 of 2017

T.Munnusamy

... Petitioner

Vs

1. State of Tamil Nadu,
Rep. by Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai - 600 009.
2. 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

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents to reconvey the petitioner's land in S.No.356/8C with extent of 12 cents (0.05.0 Hecters) situated at Periya Echankuzhi Village, H/o. Edayanchavadi Village, Ponneri Taluk, Thiruvallur District which is under the subject matter of land acquisition vide Declaration G.O.Ms.No.91 dated 06.03.1992 on the file of the first respondent by considering the petitioner's representation dated 03.07.2017.

For Petitioner : Mr. S.Dhanaraj

For Respondent - 1 : Mr. M.Elumalai
Special Government Pleader
2 : Mr.Karthik Rajan
3 : No appearance



O R D E R

This Writ Petition is filed for the issuance of Writ of Mandamus directing the respondents to reconvey the petitioner's land in S.No.356/8C with an extent of 12 cents (0.05.0 Hecters) situated at Periya Echankuzhi Village, H/o. Edayanchavadi Village, Ponneri Taluk, Thiruvallur District, by considering the petitioner's representation dated 03.07.2017.

2. It is admitted by the petitioner that the land in respect of which the petitioner seeks reconveyance is the subject matter of land acquisition which was acquired by issuance of declaration under Section 6 of Act vide G.O.Ms. 91 dated 06.03.1992. It is admitted by the petitioner himself that the award was passed on 03.08.2001, however it is the case of the petitioner that the petitioner was unable to participate since notice was not served on him. It is the specific case of the petitioner that the award of the land acquisition officer is the subject matter of reference under Section 30 of Land Acquisition Act in L.A.O.P. No.11 of 2004 before the Sub-Court, Ponneri. The petitioner contends that no amount of compensation was paid to him. Hence, the petitioner made a representation before the Government for reconveyance and the petitioner's representation was rejected by order dated 27.09.2004. Thereafter, the petitioner filed a Writ Petition in W.P. No.36133 of 2004 before this Court and this Court by order dated 27.09.2004, set aside the order of the second respondent with a direction to the petitioner to submit fresh representation and the first respondent was further directed to consider the representation of the petitioner for reconveyance.

3. The petitioner made a fresh representation dated 04.01.2005 to the first respondent. However, the first respondent rejected the petitioner's claim for re-conveyance by impugned order dated 23.05.2005. Despite the fact that petitioner's claim was rejected, without challenging the order of Government rejecting the petitioner's claim for re-conveyance, the petitioner has come forward with the present Writ Petition stating that the Government has not utilised the land for the purpose for which it was acquired.

4. This Court finds that the Writ Petition is not maintainable for the simple reason that the petitioner has not challenged the order of first respondent rejecting the petitioner's claim for re-conveyance. Without challenging the order dated 23.05.2005, the petitioner cannot seek Writ of Mandamus.

5. The petitioner himself admits that no amount was paid towards compensation to him. Since the compensation as per the



award is under reference of Section 30 of the Land Acquisition Act, this Court cannot assume ownership in favour of the petitioner even before a decision is taken by the Civil Court. This Court cannot direct the respondents to consider the representation of the petitioner for reconveyance since the petitioner has to establish his title in the reference under Section 30 of the Land Acquisition Act. Hence assuming that the petitioner's Writ Petition is maintainable, this Court find no merit in the application for reconveyance. Since the petitioner has not challenged the order of Government rejecting the petitioner's application for reconveyance of land under Section 48-B of Land Acquisition Act, the prayer for issuing a direction to the respondent to consider the application for reconveyance cannot be entertained.

6. This Court find no merits in the grounds raised in the Writ Petition. This Writ Petition is devoid of merits and dismissed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai - 600 009.
 - 2.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.
- +1 cc to M/s.Karthik rajan, Advocate Sr.No. 6468
+1 cc to M/s.T.P.Sekar, Advocate Sr.No. 6562
+1 cc to The Government Pleader Sr.No. 6798

W.P. No. 24453 of 2017

PMK (CO)
RMP (29/03/2021)