



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2021

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CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.26046 of 2018
and
W.M.P.No.30259 of 2018

Joseph Cletus

... Petitioner

vs.

1.The Secretary to Government of Tamil Nadu
Housing and Urban Development,
Secretariat, Fort St. George, Chennai - 9.

2.The District Collector
Collector Office,
Chennai.

3.The Special Deputy Collector,
Land Acquisition Cell,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

4.The Tahsildar,
Ponneri Taluk Office,
Ponneri - 601 204.

5.The Chairman,
Tamil Nadu Slum Clearance Board,
Chepauk, Chennai - 600 005.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, in the nature of Writ of Declaration, declaring that the Acquisition proceedings initiated under Land Acquisition Act, 1894 is lapsed under Section 24(2) of "Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" in so far as the petitioner's Land in Survey No.320/1A2, measuring 1645 square feet at Edayanchavadi Village, Ponneri Taluk, Tiruvellore District, is null and void and consequently permitted the petitioner to retain the possession of the said property.



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For Petitioner : Mr.K.Thenrajan

For R1, R2 and R4: Mr.M.R.Gokul Krishnan
Government Advocate

For R5 : Mr.S.Prabhu
Standing Counsel

For R3 : No Appearance

O R D E R

This writ petition is filed to declare that the Acquisition proceedings initiated under Land Acquisition Act, 1894 is lapsed under Section 24(2) of "Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" in so far as the petitioner's Land in Survey No.320/1A2, measuring 1645 square feet at Edayanchavadi Village, Ponneri Taluk, Tiruvellore District, is null and void and consequently permitted the petitioner to retain the possession of the said property.

2. The case of the petitioner is that, the land in question, which was originally belonging to the petitioner 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 petitioner 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 petitioner is that, the land in question which was acquired from the petitioner 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 fifth 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 land can be re-conveyed to the petitioner and in order to get the re-conveyance, the petitioner has filed the present writ petition with the aforesaid prayer.



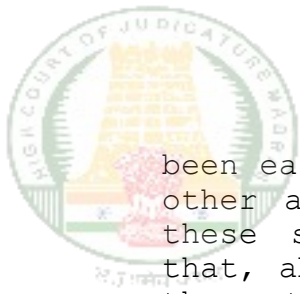
6. Heard Mr. K.Thenrajan, learned counsel appearing for the petitioner, who would submit that, though the land acquisition proceedings has been concluded and the land in question has been acquired long back by the respondents for public purpose, the purpose for which the land was acquired has not been undertaken fruitfully and subsequently, the land has been handed over to various authorities and at last it has come to the hands of the fifth 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 petitioner. Therefore, the learned counsel seeks the indulgence of this Court to permit the petitioner to retain the possession of the land in question.

7. However, Mr. R.Gokul Krishnan, learned Government Advocate appearing for the first, second and fourth respondents and Mr.S.Prabhu, learned Standing Counsel for the fifth 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 similarly placed land owners have become unsuccessful in such challenge and thereafter, the land acquisition proceedings has come to its logical conclusion, where the lands acquired were 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 fifth 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 fifth 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 petitioner does not arise. Instead, the entire lands have been properly utilized for public purpose as stated above.

10. Insofar as the claim made by the petitioners that, some area of the lands acquired has been unutilized, where trees and bushes are there and some area has been left out for burial ground, that also has been submitted by the learned Standing Counsel for the fifth 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 lands 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 petitioner and the plea raised by the petitioner can very well be rejected as it deserves to be rejected.

11. I have considered the rival submissions made on behalf of the petitioner and the respondents and also perused the materials placed on record.

12. It is the definite stand taken by the respondents, especially the fifth 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. 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 manner hamper the progress undertaken by the present respondents i.e., the authorities who have utilized the lands in question for public purpose.

14. When that being the position, it is the claim of the petitioner 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 similarly placed land owners and subsequently, award amount also has been paid or deposited, and in this regard for enhancement of compensation, the similarly placed land owners have approached the Court by filing original petitions and the same are pending consideration.

15. When that being so, the question of considering the request made by the petitioner to permit him to retain the possession of the land in question 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 lands acquired have 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 declaration as claimed by the petitioner. Therefore, this writ petitions fail and accordingly it is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

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To

- 1.The Secretary to Government of Tamil Nadu
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- 2.The District Collector
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- 3.The Special Deputy Collector,
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- 5.The Chairman,
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Chepauk, Chennai - 600 005.

+1cc to M/s.S.Prabhu, Advocate Sr.51858
+1cc to the Government Pleader Sr.51979

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srg 09/11/2021