

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Judgment	Date of Pronouncing the Judgment
29.07.2021	09.08.2021

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CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. (MD) No.1491 of 2021

and

C.M.P. (MD) No.6118 of 2021

R.Rajathi

... Appellant

-vs-

1.The Secretary to Government,
Law (Legal Education) Department,
Secretariat,
Government of Tamil Nadu,
Chennai-9.

2.The Secretary to Government,
Revenue Department,
Secretariat,
Government of Tamil Nadu,
Chennai-9

3.The Additional Chief Secretary and
Principal Commissioner for Land Administration,
Ezhilagam,
Chepuak, Chennai-600 005.

4.The District Collector,
Trichirappalli-1.

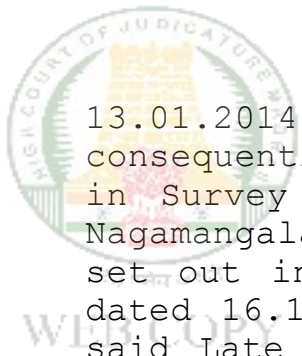
... Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 12.07.2021, passed in W.P.(MD) No.2660 of 2014, on the file of this Court.

Prayer in WP(MD). 2660/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records relating to the Impugned order vide letter No. 1219/Se./Tha. S.A./2009 dated

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13.01.2014 issued by the 1st respondent and quash the same and consequently direct the respondents to transfer the land comprised in Survey No. 182/1 belonging to (Late) Balakrishnan Pillai in Nagamangalam Village, Srirangam Taluk, Tiruchirappalli District, set out in G.O. Ms. No. 2713 Education, Science and Technology, dated 16.12.1982 to the petitioner and other legal heirs of the said Late Balakrishnan Pillai in terms of section 48 *B) of Land Acquisition Act, 1894.

For Appellant : Mrs.N.Krishnaveni, Senior Counsel
for Mr.T.Antony Arul Raj

For Respondents : Mr.Veera Kathiravan
Senior Counsel for State Government
for Mr.A.K.Manickam
Standing Counsel for Government

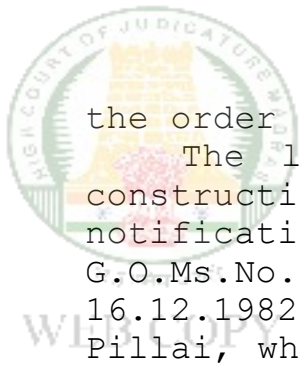
J U D G M E N T

This Writ Appeal filed by the Writ Petitioner is directed against the order dated 12.07.2021, made in W.P.(MD) No.2660 of 2014. The said Writ Petition was filed by the appellant for issuance of a Writ of Certiorari Mandamus to quash the proceedings of the first respondent dated 13.01.2014, and to direct the respondents to transfer the land comprised in Survey No.182/1 belonging to Late Balakrishnan Pillai in Nagamangalam Village, Srirangam Taluk, Tiruchirappalli District, set out in G.O.Ms.No.2713 Education, Science and Technology, dated 16.12.1982, to the petitioner and other heirs of the said Late Balakrishnan Pillai in terms of Section 48-B of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act').

2.By the impugned order, the learned Single Bench dismissed the Writ Petition holding that the prayer for reconveyance of land cannot be granted as the State Government has already initiated steps to use the land for public purpose for issuing 'House Site Patta' to persons belonging to Backward Community (B.C) and Most Backward Community (M.B.C.). The correctness of the said order is being challenged before us by way of this Writ Appeal.

3.We have heard Mrs.N.Krishnaveni, learned Senior Counsel for M.T.Antony Arul Raj, learned counsel for the appellant and Mr.Veera Kathiravan, learned Senior Counsel for State Government, assisted by Mr.A.K.Manickam, learned Standing Counsel for the respondents.

4.The facts which are necessary for consideration as to whether the appellant has made out a case for interference with

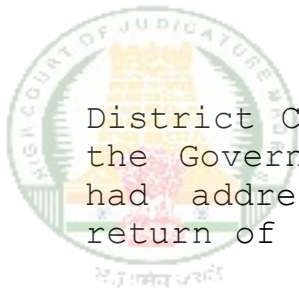


the order of the learned Single Bench are noted herein below:

The land in question was acquired for public purpose for constructing the building for Law College at Tiruchirappalli and notification under Section 4(1) of the Act was issued in G.O.Ms.No.2713, Education, Science and Technology, dated 16.12.1982. The land in question belongs to Late Balakrishnan Pillai, who is the father-in-law of the appellant. Originally, the land owner did not challenge the land acquisition proceedings and the same culminated in Award dated 23.09.1986. The compensation amount was accepted by the original land owner. The appellant would state that apart from the land owned by Balakrishnan Pillai, the land owned by his brother was also subject matter of acquisition and he had challenged the same by filing Writ Petition and on account of the orders passed in the Writ Petition the land stood excluded. Further, the appellant's father-in-law accepted the acquisition proceedings as it was for public purpose to construct Law College in Tiruchirappalli. However, the project was not implemented and therefore, the original land owner submitted a representation dated 23.09.1991, requesting to return the land, which was acquired. The request was found to be genuine by the Principal, Law College, Tiruchirappalli and he has addressed to the Director of Legal Studies stating that the land of Balakrishnan measuring 7.68 Acre can be returned to him after receiving the compensation amount which was paid.

5.The learned Senior Counsel appearing for the appellant has drawn our attention to various other correspondences, namely, the report of the Revenue Divisional Officer, Trichy dated 29.10.1992, recommending return of the land to Balakrishnan Pillai; the report of the District Collector to the Government dated 17.11.1992, through Commissioner of Land Administration, recommending return of the land to Balakrishnan Pillai and the report of the Commissioner of Land Administration dated 05.01.1993, recommending return of the land to the erstwhile land owner.

6.Further, it is submitted that the petitioner's father-in-law passed away and his son Mr.B.Ravichandran filed a representation for return of the land and the said petition was considered and enquiry was ordered to be conducted by the Revenue Divisional Officer, who sent notice dated 02.09.1996, fixing the date of enquiry as 05.09.1996. In the said enquiry Mr.B.Ravichandran, husband of the appellant appeared and gave statement on 05.09.1996 and a report was submitted by the Revenue Divisional Officer dated 19.08.1998, reiterating his earlier stand that the land can be returned to the erstwhile land owner. Subsequently, another petition was given by the appellant's husband for withdrawal of the acquisition proceedings in respect of the land in S.No.182/1. This was followed by another representation dated 09.08.1999, pursuant to which, a report was submitted on 20.03.2000 to the



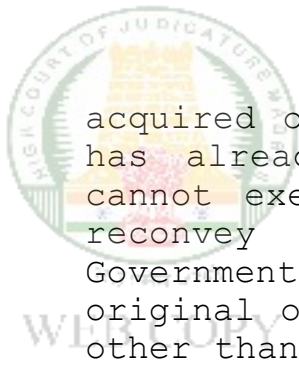
District Collector, who in turn sent a report dated 23.08.2000 to the Government. Further, the Commissioner of Land Administration had addressed the Government on 27.05.2002, recommending for return of the land to the erstwhile owner.

7.The sheet anchor of the case of the appellant is the Government Letter dated 17.05.2005, written by the Secretary to the Government, Law Department to the District Collector, Tiruchirappalli, wherein the District Collector was directed to identify as to who are all the legal heirs of the erstwhile land owner for the purpose of returning the land. It is submitted that necessary details along with legal heir certificate for Balakrishnan Pillai was given and statement was also given by the appellant's husband before the Revenue Divisional Officer on 17.06.2005. In spite of all these proceedings, by proceedings dated 13.01.2014, the Government refused to reconvey the land to the appellant, which has compelled the appellant to file the Writ Petition.

8.In the impugned order, the first respondent took note of the request made by the appellant for return of the land in question and after taking note of the directions issued in W.P.(MD) No.16035 of 2012 dated 15.04.2013, called for a report as to whether the land in question are required for any other purpose and based on the report submitted that the land is to be used for the public purpose for issuing 'House Site Patta' to persons belonging to Backward Community and Most Backward Community, held that the land cannot be returned to the appellant.

9.The legal issue, which arise for consideration in the Writ Petition was whether the appellant is entitled to reconveyance of the land in question under Section 48 - B of the Act.

10.After noting the facts placed before the Court, which we have detailed above, it was pointed out that Section 48 - B of the Act was introduced in the State of Tamil Nadu as an exception to the general rule and the provision has to be strictly considered and strict compliance should be insisted upon. The Writ Court took note of the Judgment of the Division Bench of this Court in **Chairman, Thiruvottiyur Municipality and others v. R.Revathy and others** reported in **2018 (1) CWC 81**, wherein the decision of the Hon'ble Supreme Court in the case of **Tamil Nadu Housing Board v. Keeravani Ammal and others** reported in **(2007) 9 SCC 255**, **Tamil Nadu Housing Board v. L.Chandrasekar (dead) by Lrs and others** reported in **(2010) 2 SCC 786** were referred and it was pointed out that the Government can release the acquired land only till the same continues to vest in it and that too if it is satisfied that the acquired land is not needed for the purpose for which it was



acquired or for any other public purpose. When the acquired land has already been handed over to other agency, the Government cannot exercise the power under Section 48 - B of the Act and reconvey the same to the original owner. In any case, the Government cannot be compelled to reconvey the land to the original owner if the same can be utilized for any public purpose other than the one for which it was acquired. The earlier decision of the Hon'ble Supreme Court in the case of **Rajasthan State Industrial Development and Investment Corporation v. Subhash Sindhi Cooperative Housing Society Jaipur and others** reported in (2013) 5 SCC 427 was also noted. Thus, the Hon'ble Division Bench held that the question of transfer of the land to the original land owner would arise only in case the Government is satisfied that the land is not required for the purpose for which it was acquired or for any other public purpose and there is no right to compel the Government to reconvey the land.

11.The learned Writ Court while dealing with the issue as to how the power must be exercised by the Government under Section 48 - B of the Act, relied on the decision of the Hon'ble Division Bench of this Court in **GHCL Limited, Madurai v. State of Tamil Nadu rep. by its Secretary** reported in (2008) 7 MLJ 833. Reverting back to the facts of the case, the learned Writ Court pointed out that the authorities though from the year 1992 onwards, were in favour of re-conveying the land, since it was not required for the purpose for which it was acquired, and after an order was passed in the Writ Petition and a direction was issued, the first respondent has come up with a new stand that the property is required for another public purpose.

12.Further, the learned Writ Court noted that the father-in-law of the appellant had received the compensation for acquiring the land in the year 1986 itself and therefore, the question, which arose for consideration was as to how the claim has to be dealt with to decide this question. The learned Writ Court relied on the decision of the Hon'ble Supreme Court in **C.Padma and others v. Deputy Secretary to the Government of Tamil Nadu and others** reported in (1997) 2 SCC 627, which decision was followed by the Hon'ble Division Bench of this Court in **G.Ranganathan and others v. State of Tamil Nadu rep. by the Commissioner and Secretary to the Government and another** reported in (2009) 2 MLJ 129. Thus, by referring these two decisions, it was held that the acquired land having vested in the State and compensation paid to the claimant, the claimants, thereafter, are not entitled to restitution of possession on the ground that either original public purpose had ceased to be in operation or the land could not be used for any other purpose.



13.Further, it was pointed out that Section 48-B of the Act does not confer any right to parties to claim reconveyance and the provision merely empowers the Government to reconvey, provided, the conditions specified in the said Section are fulfilled. Noting that the land is required for some other purpose other than the purpose for which it was acquired, the learned Writ Court has held that the request made by the appellant pales into insignificance and Section 48 - B of the Act becomes in-operational.

14.The learned Writ Court took note of the decision of the Hon'ble Supreme Court in **V.Chandrasekaran and another v. Administrative Officer and others** reported in (2012) 12 SCC 133 and the decision in the case of **Tamil Nadu Arasu Kooturuvuthurai Oanuyalargal Sangam rep. by its General Secretary P.Soundarrajan & others v. M.R.Srinivasan and others** reported in 2015 SCC Online Mad 8195 and held that the appellant has no legal right to seek for reconveyance, more particularly, when the State has initiated steps to use the land for public purpose. Accordingly, the prayer sought for reconveyance was rejected. The legal position has been clearly taken note of by the learned Writ Court and held that the appellant cannot escape from the rigor of the said decisions, more particularly, on the scope and object for which Section 48 - B of the Act was introduced.

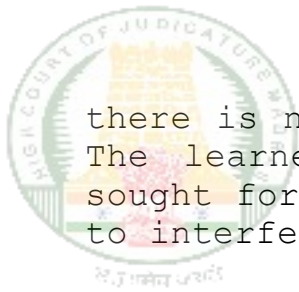
15.As pointed out by the Hon'ble Supreme Court in **V.Chandrasekar** (supra), once the land is acquired and it vests in the State, free from all encumbrances, it is not the concern of the land owner, whether the land is being used for the purpose for which it was acquired or for any other purpose and likewise the land owner becomes *persona non-grata* and he has a right only to receive compensation for the same, unless acquisition proceedings itself challenged. Further, it was held that the State has the requisite power to reconvey the land to the person interested nor can such person claim any right of restitution on any ground, whatsoever, unless there is some statutory amendment to the said effect.

16.The decision of the Division Bench in the case **Tamil Nadu Housing Board v. Uma Maheswari** reported in 2011 (5) CTC 503, relied on by the learned Senior Counsel for the appellant can be of little assistance to the case of the appellant. In the said case, the writ petitioners had filed the Writ Petitions challenging the order passed by the State rejecting their request for reconveyance of acquired land under Section 48 - B of the Act. The Writ Petitions were allowed, directing the State to consider the petitioners' request for reconveyance. Aggrieved by the said



order, the State filed Writ Appeal before the Division Bench of this Court. On facts, it was noted that in number of cases the Government on the basis of the recommendations of the Expert Committee accepted the requests of the land-owners and took a decision to reconvey their lands and at the same time, in respect of some of the representations the Government took the decision otherwise and rejected the request of re-conveyance of the land and such action was found to be arbitrary, capricious, discriminatory and violative of Article 14 of the Constitution of India. In the said case, while deciding the question as to what is required by Article 14 of the Constitution, reference was made to the decision of the Constitution Bench of the Hon'ble Supreme Court in the case of **Menaka Gandhi v. Union of India** reported in **AIR 1978 SC 597** and it was held that the concept of equality before law means that among equals the law should be equal and should be equally administered, and that like should be treated alike and there must not be discrimination among equals unless there is reasonable classification.

17.The facts of the case on hand is entirely different. Admittedly, the acquisition proceedings was not challenged by the erstwhile owner, the same culminated in an award of compensation and the amount paid by the Government was accepted by the erstwhile owner. It is thereafter, the land owner submitted representations and sought for reconveyance of the land on the only ground that the land is not required for the purpose for which it was acquired. As noticed above, the power under Section 48 - B, exercisable by the Government, has been clearly circumscribed in the above said decisions that it is only the Government, if satisfied that the land which is vested with them is not required for the purpose for which it was acquired, or any other public purpose, the Government may transfer such land to the original owner, who is willing to repay the amount paid to him under this Act for the acquisition of such land inclusive of the amount referred to in sub section (1-A) and (2) of Section 23, if any, paid under this Act. In no uncertain terms, the Government has taken a stand that the land is required for some other purpose. In such circumstances, the claim made by the appellant under Section 48 - B of the Act is not maintainable. Thus, reconveyance of the land in terms of Section 48-B of the Act would arise only when the Government is convinced that the land is not required not only for the purpose, for which, it was acquired but also for any other purpose and the said provision is an exception to the General Rule, which requires a strict construction meaning thereby, the satisfaction of the State Government with regard to the non-utilisation of the land must be arrived at on the basis of relevant material. The appellant has no right to compel the Government or the requesting body to reconvey the land either to the erstwhile owner or to the subsequent purchaser. Further more,



there is no vested right to the land owner to claim reconveyance. The learned Single Bench rightly declined to grant the relief sought for. For all the above mentioned reasons, we find no ground to interfere with the order passed by the learned Single Bench.

18. In the result, the Writ Appeal fails and the same is dismissed. Consequently, connected Miscellaneous Petition is also dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

sj

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the Judgment may be utilized for official purposes, but, ensuring that the copy of the Judgment that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To:

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Law (Legal Education) Department,
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3. The Additional Chief Secretary and
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Ezhilagam, Chepuak, Chennai-600 005.

4. The District Collector,
Trichirappalli-1.

JUDGMENT

IN

W.A. (MD) No.1491 of 2021

and

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