



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON:	08.07.2021
DELIVERED ON:	12.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) No.2660 of 2014

and M.P. (MD) Nos.1 & 2 of 2015

(Through Video Conference)

Tmt.R.Rajathi

... Petitioner

Vs

1) The Secretary to Government,
Law (Legal Education) Department,
Secretariat, Government of Tamil Nadu,
Chennai 600 009

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, Chepauk, Chennai 600 005

4) The District Collector,
Tiruchirappalli - 1

... Respondents

• ***RR 3 & 4 impleaded vide Court order dated 12.06.2015 in M.P.No.1 of 2014.***

PRAYER: Petition filed under Article 226 of the Constitution of India 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 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 Petitioner : M/s.N.Krishnaveni,
Senior Counsel for
Mr.T.Antony Arul Raj

For Respondents : Mr.R.Suresh Kumar,
Government Advocate



O R D E R

The present Writ Petition has been filed challenging the impugned proceedings of the first respondent dated 13.01.2014 and for a consequential direction to the respondents to transfer/reconvey the subject lands to the petitioner and other legal heirs in terms of Section 48-B of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act').

2. The case of the petitioner is that her father-in-law was the owner of the subject property situated at S.No.182/1, Nagamangalam village, measuring an extent of 7.68 acres. This property, along with the properties belonging to other individuals, were sought to be acquired for the purpose of constructing a Law College. Accordingly, the 4 (1) Notification was issued under the Act on 16.12.1982. Thereafter, the Notification was issued on 18.12.1982 invoking the Urgency Clause under Section 17 (1) of the Act since there was an immediate need for acquiring the lands. Subsequently, the Award amount was also paid to the father-in-law of the petitioner on 23.09.1986 and he received a sum of Rs.37,405/- (Rupees Thirty Seven Thousand Four Hundred and Five only).

3. The Government decided to withdraw from the process of acquisition of lands belonging to all the other owners except the land belonging to the father-in-law of the petitioner through a Notification dated 12.12.1990.

4. From the year 1991 onwards, the father-in-law of the petitioner started making representations seeking for the reconveyance of the lands acquired in S.No.182/1, measuring an extent of 7.68 acres. The further case of the petitioner is that her father-in-law passed away on 27.12.1991. Thereafter, the matter was followed up by his legal heirs, which also includes the husband of the petitioner. Almost all the Authorities recommended for the reconveyance of the property. In the meantime, the husband of the petitioner also died in the year 2009.

5. Since all the Authorities had recommended for the reconveyance of the property and it was pending before the Government for a long time without passing any orders, the petitioner filed a writ petition before this court in W.P.(MD) No.16035 of 2012. This Court disposed of the Writ Petition on 15.04.2013 by passing the following order:

"2.The land in S.No.182/1 in Nagamangalam village, admeasuring 7.68 acres was acquired by the Government of Tamil Nadu as per 4(1) notification dated 16.12.1982. The acquisition was for the purpose of establishing a Law College in Trichy. Since the Government invoked urgency clause and



dispensed with the enquiry under Section 5(A) of the Act, the neighbouring land owner in W.P.No.8384 of 1983 challenged the acquisition proceedings. The High Court quashed the notification issued under Section 17(1) of the Act and held that the Government was not justified in invoking the urgency provisions. The Government was given liberty to proceed further. However, the Government failed to take any further action thereafter. In the mean time, the Government has taken a decision to allot the campus of the Bharathidasan University for the Law College. The Government has also taken a decision to reconvey the lands to the land owners. The petitioner is the daughter-in-law of the original land owner. The petitioner approached the Government with an application for reconveyance under Section 48(B) of the Land Acquisition Act. The Government wanted the third respondent to furnish certain details. However, there was no follow up action taken by the third respondent to submit the particulars to the second respondent for taking a decision in the matter. This made the petitioner to file this writ petition.

3.The question as to whether the land should be reconveyed to the erstwhile land owners under section Section 48(B) of the Land Acquisition Act is essentially an issue to be decided by the Government.

4.The petitioner has no legal right to insist that the Government should reconvey the land to her. However materials available on record clearly shows that the Government is in the process of reconveying the land to the petitioner. The Secretary to the Government, Revenue Department, vide communication, dated 17.02.2012, wanted certain particulars to be furnished by the District Collector.

5.The Secretary to the Government, Revenue Department made it very clear that the request would be considered, after obtaining a report from the District Collector, Trichy.

6.The District Collector, Trichy is directed to submit a report to the second respondent, pursuant to the communication dated 17.02.2012. The second respondent, is, thereafter directed to consider and dispose of the application submitted by the petitioner for reconveyance, in the light of the communication dated 17.02.2012. Such exercise shall



be completed within a period of six months from the date of receipt of a copy of this order."

6. Pursuant to the orders passed by this Court, the impugned order came to be passed by the first respondent on 13.01.2014 rejecting the claim made by the petitioner for reconveyance. Aggrieved by the same, the present Writ Petition has been filed before this Court.

7. The fourth respondent has filed a counter affidavit in this case. The relevant portions in the counter affidavit are extracted hereunder:

"6. Regarding averment made in para 3 of affidavit it is submitted that the said Balakrishnan wanted to transfer the land to him, since the land was not utilised for the purpose it was acquired. Hence, the matter was forwarded to the Director of Legal Studies. They in turn stated that they got 10 acres 80 cents of land from Bharathidasan University and further said that the land already acquired can be utilised for the construction of hostel. The said Balakrishnan died on 27.12.1991 and his son Ravi Chandran again applied for reconveyance. The Director of Legal Studies informed that the acquired land is 25 Kms far away from college. Hence, the present acquired land may be allotted to some other public purpose. Out of the 7 acres 68 cents, an extent of 236 Sq.mt was acquired by four-way NH road. As the acquired land is required for other public purposes no final decision is taken regarding handling over of Land back to land owner. As per the provision of Section.48(B) of amended Act 16/1997 in the Land Acquisition Act, 1894 Where the Government is satisfied that the land vest in the Government under this Act is not required for the purpose for which it was acquired, or for 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". It is submitted that the request of Backward classes, Most Backward and minority departments also, transport departments for allotment of acquired land for their department is pending.

7.Regarding averment made in para 4 of affidavit it is submitted that the said Ravi Chandran also died, now his wife Thirumathi Rajathi has filed this



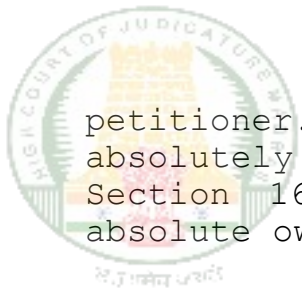
writ petition for reconveyance. But, the said petition was considered and the Land acquired is needed for Backward classes and Most Backward and minority. department purposes. This is purely for public purpose and the subject matter of the land is under transfer of process to the said backward classes department. Under those circumstances, the present writ petition has been filed by the petitioner. Also it is submitted that Section 48-B of Land Acquisition act 1894 and amended act 16/1997 provides as follows, "Where the Government is satisfied that the land vest in the Government under this Act is not required for the purpose, for which it was acquired, or for 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." Since the land is required for other public purposes, the question of handing over the land back to land owner is does not arise."

8. Heard M/s.N.Krishnaveni, learned Senior counsel appearing on behalf of Mr.T.Antony Arul Raj, learned counsel for the petitioner and Mr.R.Suresh Kumar, learned Government Advocate appearing for the respondents 1 to 4.

9. There is no serious dispute on the facts of the case and the only issue that requires consideration is as to whether the petitioner is entitled to seek for the reconveyance of the property under Section 48-B of the Act.

10. It must be clarified that the old Act will continue to apply to the facts of the present case since as per Section 24(1)(b) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, where an Award has been passed under the old Act, such proceedings shall continue under the same Act as if the Act has not been repealed. In view of the same, this Court can safely deal with the issue under Section 48 -B of the Act.

11. Even though the acquisition proceedings were initiated for acquiring nearly 30 acres of land, the proceedings were dropped insofar as all the other land owners are concerned, except insofar as the land belonging to the father-in-law of the petitioner. Therefore, what remains under acquisition is only 7.68 acres of land in S.F.No.182/1. It is an admitted case that an Award was passed and the compensation was also received by the father-in-law of the



petitioner. Therefore, under the old Act, the land will vest absolutely in the Government, free from all encumbrances as per Section 16 of the Act, thereby the Government has become the absolute owner of the property.

12. The father-in-law of the petitioner started the process of seeking for reconveyance of the subject property from the year 1991 onwards. The learned Senior Counsel appearing behalf of the petitioner has brought to the notice of this Court the various reports submitted by the Sub Collector, Tiruchirappalli, Principal, Government Law College, Tiruchirapalli District, Collector, Tiruchirappalli, Commissioner of Land Administration, Chennai, Secretary to the Government, ..etc., and it is clearly seen from all these reports that, no one was opposing the reconveyance and in fact, they were all in favour of reconveying the subject property. The communication, dated 20.12.2007 made by the Secretary to the Government shows that the Government did not require the property for constructing the Hostel for the Government Law College and a recommendation was made for the reconveyance of the property and the husband of the petitioner was directed to approach the District Collector in this regard.

13. Since there was no progress, the petitioner had approached this Court and sought for a direction and it is only thereafter, the impugned order came to be passed by the first respondent on 13.01.2014 to the effect that the property will be required for allotment of 'House Site Patta' to persons belonging to the Backward Community (B.C) and Most Backward Community (M.B.C.) and accordingly, the request made by the petitioner was rejected.

14. At this juncture, this Court has to necessarily consider the scope and ambit of Section 48-B of the Act. It is not necessary to elaborately deal with the said provision since the law has been settled by various decisions of this Court and the Hon'ble Apex Court. Therefore, it will suffice if these judgements are taken into consideration and analysed, to find out if the claim made by the petitioner can be brought within the four corners of law.

15. The landowner becomes *persona non grata* after the land vests with the Government. The land once vested in the State cannot be divested and the State even has a right to change the user.

16. Section 48-B of the Land Acquisition Act, 1984 was introduced into the Act in the State of Tamil Nadu as an exception and it has been consistently held that this provision has to be strictly construed and strict compliance with its terms should be insisted upon.

17. The Division Bench of this Court had an occasion to



consider the scope of 48-B of the Act in **Chairman, Thiruvottiyur Municipality and others vs. R.Revathy and others** reported in 2018 (1) CWC 81. The relevant portions in the judgment are extracted here under:

"30. Section 48-B was inserted by State amendment in the Land Acquisition Act, for re-conveyance of the property. The provision reads thus:-

"48-B Transfer of land to original owner in certain cases- Where the Government are satisfied that the land vested in the Government under this Act is not required for the purpose for which it was acquired, or for 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."

31. The question of re-conveyance in terms of Section 48-B would arise only in case the State Government is of the view that the land is not required for the purpose for which it was acquired or for any other public purpose. Before taking a decision for reconveyance, the Government must be convinced that the land is not required not only for the purpose for which it was acquired, but for any other public purpose also.

32. As observed by the Hon'ble Supreme Court in Tamil Nadu Housing Board v. Keeravani Ammal and others [(2007) 9 SCC 255], Section 48-B introduced into the Land Acquisition Act in the State of Tamilnadu is an exception to the general rule that the land on acquisition become the property of the State and it could be used by the Government for any other public purpose or in case, it is not needed for such public purpose, the same can also be sold by public auction. The provision like 48-B must therefore requires a strict construction, meaning thereby, satisfaction of the State Government with regard to the non-utilisation of the land must be arrived at on the basis of relevant materials.

33. There is no right to compel the Government or the requisitioning body to reconvey the land either to the erstwhile land owner or to the subsequent purchaser. The issue is no longer res integra in view of the string of decisions on the point.



34. The Supreme Court in Keeravani Ammal (cited supra) considered the scope and ambit of Section 48-B of the Land Acquisition Act. The Supreme Court made it very clear that there is no vested right to the land owner to claim reconveyance. The Supreme Court, in the said decision, by quoting an earlier judgment in State of Kerala v. M.Bhaskaran Pillai [(1997) 5 SCC 432] indicated that in case the land is not required for the purpose for which it was acquired, it should be sold through public auction and the provision like Section 48-B is an exception to the said rule and as such, it should be construed very strictly and the Court must insist upon strict compliance with its terms.

35. The Hon'ble Supreme Court in Tamil Nadu Housing Board v. L.Chandrasekaran (dead) by Lrs. and others [(2010) 2 SCC 786] once again considered the right claimed by the erstwhile land owners under Section 48-B for reconveyance and made the legal position very clear that there is no question of reconveyance by the Government, in case, the land had already been transferred to the requisitioning body and the latter had utilised substantial portion thereof for execution of the Scheme and for other public purpose. The following observation would make the position clear:-

"28. It need no emphasis that in exercise of power under Section 48-B of the Act, 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. To put it differently, if the acquired land has already been transferred to other agency, the Government cannot exercise 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 utilised for any public purpose other than the one for which it was acquired."

36. The question before the Supreme Court in Rajasthan State Industrial Development and Investment Corporation v. Subhash Sindhi Cooperative Housing Society, Jaipur and others [(2013) 5 SCC 427], was as to whether transferee of land after issuance of Section 4(1) notification is entitled to claim release of land from acquiring authorities on the basis of similar release of land. The Hon'ble Supreme



Court, by placing reliance on the earlier judgments indicated that the sale subsequent to Section 4(1) notification is void and there would be no need for an order for quashing as it would be automatically null and void without more ado. The question regarding discrimination was answered by the Supreme Court by observing that if the land of other similarly situated persons have been released, the Court must be satisfied that it is similarly situated in all respects, and has an independent right to get the land released. It was further observed that Article 14 of the Constitution does not envisage negative equality and it cannot be used to perpetuate any illegality. The Supreme Court set aside the order passed by the High Court directing reconveyance and held that there was no right to claim release on the ground that others were given the benefit of such release.

37. This is not a case of non utilization of the land acquired. The land was acquired for water supply scheme. The Municipality implemented the scheme partly by utilizing a portion of the acquired land. However, there was no progress on account of the presence of sea water near the site. In short, due to replenishment of sea water, the water could not be used for drinking purpose. The municipality was therefore not in a position to use the remaining land for the purpose for which it was acquired. Since there was no value appreciation for the land in question as it is situated near the sea and in an underdeveloped area, there was no claim made by the land owners for return of land for a period of 43 years. This is also evident from the fact that there was no objection given by the legal heirs of the erstwhile owner, opposing the decision taken by the municipality to convey the land to the Chennai Port Trust on lease. It was only when action was taken to entrust the land with the Chennai Port Trust, one of the legal representatives initiated Writ Petition for reconveyance in 2007.

38. 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. The Government examined the ways and means to ease the traffic congestion on S.N.Chetty street and Ennore Expressway and finally a decision was taken to allot 11.26 acres of municipal land lying on the eastern



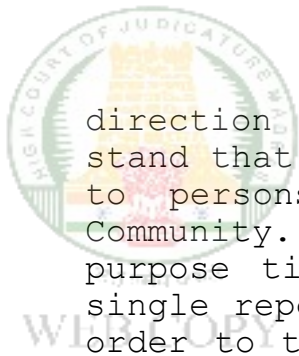
side of the Ennore Expressway to the Chennai Port Trust. The Chennai Port Trust opened and operated the transit parking station during the currency of the initial lease period. Subsequently, Thiruvottiur Municipality was merged with the Corporation of Chennai. The Corporation of Chennai executed a lease agreement in favour of the Chennai Port Trust on 1 August 2012 whereby and whereunder, 11.26 acres of land was again given on a monthly rent of Rs.12,66,508/- with increase in rent by 15% per three years. The lease was given for a period of thirty years. The Chennai Port Trust spent Rs.7.5 crores for making the container terminal operational. "

18. The Division Bench, after analysing all the earlier judgements held that, the question of transfer of lands to the original landowner would arise only in case, the Government is satisfied that the land is not required for the purpose for which it is acquired or for any other public purpose. It was further held that there is no right to compel the Government to reconvey the land.

19. The Division Bench of this Court in ***GHCL Limited, Madurai vs. State of Tamil Nadu rep. By its Secretary*** reported in (2008) 7 MLJ 833 was dealing with the issue as to how power must be exercised by the Government and it was held that the Government must consider all facts and circumstances of the case and its decision must be supported by reasons. The relevant portions in the judgement are extracted hereunder:

"22. The learned Judges in *R.Shanmugam v.State of Tamil Nadu, rep. by its Secretary, Housing and Urban Development, Fort St.George, Chennai (supra)* expressed the aforesaid finding referred to in the case of *M.Manimegalai Vs. State of Tamil Nadu, 2004 W.L.R.789*. This Court is also in respectful agreement with the said finding. The learned Judges in *R.Shanmugam v.State of Tamil Nadu, rep. by its Secretary, Housing and Urban Development, Fort St.George, Chennai (supra)* held that in passing an order under Section 48-B, the Government has to consider the facts and circumstances of the case and the decision of the Government must be supported by reasons and materials, and must be in accordance with law."

20. In the present case, all the Authorities right through from the year 1992 onwards, were in favour of reconveying the property since it was not required for the purpose for which it was acquired. It is only after an order was passed in the writ petition and



direction was issued, the first respondent has come up with a new stand that the property is required for allotting 'House Site Patta' to persons belonging to Backward Community and Most Backward Community. Admittedly, the property has not been put to use for any purpose till the impugned order was passed and there was not a single report that was given earlier to the passing of the impugned order to the effect that the property will be required for issuing 'House Site Patta' to the persons belonging to Backward Community (B.C.) and Most Backward Community (M.B.C.).

21. In the present case, there is one additional hurdle that has to be crossed before coming to the final conclusion. The father-in-law of the petitioner had received the compensation of a sum of Rs.37,405.95/- in the year 1986 itself. The question is, whether a landowner can seek for the reconveyance, after receiving compensation and how it has been dealt with by the Hon'ble Supreme Court and this Court, has to be necessarily considered before coming to the final conclusion.

22. The Hon'ble Supreme Court in ***C.Padma and others vs. Deputy Secretary to the Government of Tamil Nadu and others*** reported in (1997) 2 SCC 627 held as follows:

"5. Shri G. Ramaswamy, learned senior counsel appearing for the appellants, contends that when by operation of Section 44-B read with Section 40 of the Act, the public purpose ceased to be existing, the acquisition became bad and therefore, the G.O. was bad in law. We find no force in the contention. It is seen that after the notification in G.O.R. 1392 dated October 17, 1962 was published, the acquisition proceeding had become final, the compensation was paid to the appellants' father and thereafter the lands stood vested in the State. In terms of the agreement as contemplated in Chapter VII of the Act, the company had delivered possession subject to the terms and conditions thereunder. It is seen that one of the conditions was that on cessation of the public purpose, the lands acquired would be surrendered to the Government. In furtherance thereof, the lands came to be surrendered to the Government for resumption. The lands then were allotted to SRVS Ltd., 5th respondent which is also a subsidiary amalgamated company of the original company. Therefore, the public purpose for which acquisition was made was substituted for another public purpose. Moreover, the question stood final settled 32 years ago and hence the writ petition cannot be entertained after three decades on the ground that either original purpose was not public purpose or the land cannot be used for any other



purpose. "

23. The above judgement was followed by the Division Bench of this Court in **G.Ranganathan and others vs. State of Tamil Nadu rep. by the Commissioner and Secretary to the Government and another** reported in (2009) 2 MLJ 129. The relevant portions of the judgment are extracted hereunder...

"4.....In support of his contentions, the learned Additional Advocate General would rely on the following judgments of the Honourable Apex Court:

C.PADMA AND OTHERS vs. DY.SECRETARY TO THE GOVT.OF T.N. AND OTHERS [(1997) 2 SCC 627], and S.P.SUBRAMANYA SHETTY AND OTHERS vs. KARNATAKA STATE ROAD TRANSPORT CORPORATION AND OTHERS [AIR 1997 SC 2076] and 3.NORTHERN INDIAN GLASS INDUSTRIES vs. JASWANT SINGH AND OTHERS [(2003) 1 SCC 335].

5. In the first judgment, the Honourable Apex Court has held that 'acquired land having vested in the State and compensation paid to the claimant, the claimants, thereafter, are not entitled to restitution of possession on ground that either original public purpose had ceased to be in operation or the land could not be used for any other purpose.'

.....

13. On a close scrutiny of the entire materials placed on record, it is crystal clear that after scrupulously following all the requirements of law, the land of the appellants was acquired by the respondents and even an Award was passed on 28.3.1988. When such is the position, as has been held by the Honourable Apex Court in C.PADMA AND OTHERS vs. DY.SECRETARY TO THE GOVT.OF T.N. AND OTHERS [(1997) 2 SCC 627], 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 ground that either original public purpose had ceased to be in operation or the land could not be used for any other purpose' and has been further held by the Honourable Apex Court in NORTHERN INDIAN GLASS INDUSTRIES vs. JASWANT SINGH AND OTHERS [(2003) 1 SCC 335], 'after land vests in State under Section 16 of the Land Acquisition Act, following taking of possession by Collector, owner has no right to seek to revest the land in himself even if the land is not used for the purpose for which acquired.' Therefore, when once the land of the appellant vests with the authorities, they have no right to seek to



revest the land in himself and they cannot seek for restitution of possession, that too when the land is very much needed for the expansion of the bus depot by the respondents. "

24. The Division Bench has categorically held that where an acquired land has already vested with the State and the compensation has also been paid to the claimant, the claimants thereafter are not entitled to restitution of possession on the ground either the original purpose has seized to be in operation or the land could not be used for any other purpose.

25. The above judgments stand in the way of this Court from granting the relief sought for by the petitioner. This Court is not able to cross the hurdle since both the conditions are satisfied in this case, namely, the land has vested with the Government and the father-in-law of the petitioner has already received the compensation amount.

26. Section 48-B of the Act does not confer any right to the parties to claim reconveyance. This provision merely empowers the Government to reconvey, provided, the conditions specified in the said Section are fulfilled. The Government has now come up with a stand that the House Site Patta is going to be issued to the persons belonging to Backward Community and Most Backward Community. Pursuant to the impugned order passed by the first respondent, proceedings have also been initiated in that regard and the same is clear from the additional typed set of papers filed by the learned Counsel for the petitioner, which contains the details provided under the Right to Information Act. Once such a stand is taken by the Government, the request made by the petitioner pales into insignificance and Section 48-B of the Act becomes inoperational. It will be relevant to take note of the following judgments in this regard.

- ***V.Chandrasekaran and another vs. Administrative Officer and others*** reported in (2012) 12 SCC 133, wherein the relevant portions are extracted hereunder:

"Land once vested in the Government - whether can be divested:

25. It is a settled legal proposition, that once the land is vested in the State, free from all encumbrances, it cannot be divested and proceedings under the Act would not lapse, even if an award is not made within the statutorily stipulated period. (Vide: Avadh Bihari Yadav v. State of Bihar & Ors.,; U.P. Jal Nigam v. Kalra Properties (P) Ltd. (Supra); Allahabad Development Authority v. Nasiruzzaman & Ors., , M. Ramalinga Thevar v. State of Tamil Nadu & Ors., ; and



Government of Andhra Pradesh v. Syed Akbar & Ors.,).

26. The said land, once acquired, cannot be restored to the tenure holders/persons-interested, even if it is not used for the purpose for which it was so acquired, or for any other purpose either. The proceedings cannot be withdrawn/abandoned under the provisions of Section 48 of the Act, or under Section 21 of the General Clauses Act, once the possession of the land has been taken and the land vests in the State, free from all encumbrances. (Vide: State of Madhya Pradesh v. V.P. Sharma,; Lt. Governor of Himachal Pradesh & Anr. v. Shri Avinash Sharma,; Satendra Prasad Jain v. State of U.P. & Ors.,; Rajasthan Housing Board & Ors. v. Shri Kishan & Ors.; and Dedicated Freight Corridor Corporation of India v. Subodh Singh & Ors.

27. The meaning of the word 'vesting', has been considered by this Court time and again. In Fruit and Vegetable Merchants Union v. The Delhi Improvement Trust, AIR 1957 SC 344, this Court held that the meaning of word 'vesting' varies as per the context of the Statute, under which the property vests. So far as the vesting under Sections 16 and 17 of the Act is concerned, the Court held as under.-

"19.....In the cases contemplated by Sections 16 and 17, the property acquired becomes the property of Government without any condition or ; limitations either as to title or possession. The legislature has made it clear that vesting of the property is not for any limited purpose or limited duration "

28. In Gulam Mustafa & Ors. v. State of Maharashtra & Ors., AIR 1977 SC 448, in a similar situation, this Court held as under:

"5....Once the original acquisition is valid and title has vested in the Municipality, how it uses the excess land is no concern of the original owner and cannot be the basis for invalidating the acquisition. There is no principle of law by which a valid compulsory acquisition stands voided because long later the requiring Authority diverts it to a public purpose other than the one stated in the ... declaration "

29. Similarly, in State of Kerala & Anr. v. M. Bhaskaran Pillai & Anr., (1997) 5 SCC 432, this Court held as under:



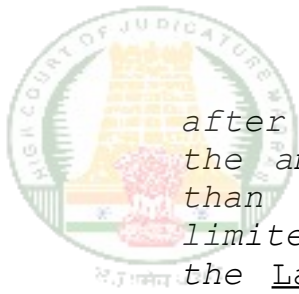
"It is settled law that if the land is acquired for a public purpose, after the public purpose was achieved, the rest of the land could be used for any other public purpose. In case there is no other public purpose for which the land is needed, then instead of disposal by way of sale to the erstwhile owner, the land should be put to public auction and the amount fetched in the public auction can be better utilised for the public purpose envisaged in the Directive Principles of the Constitution. "

30. In Government of Andhra Pradesh & Anr. v. Syed Akbar (Supra), this Court considered this very issue and held that, once the land has vested in the State, it can neither be divested, by virtue of Section 48 of the Act, nor can it be reconveyed to the persons-interested/tenure holders, and that therefore, the question of restitution of possession to the tenure holder, does not arise. (See also: Pratap v. State of Rajasthan,; Chandragaudaj Ramgonda Patil v. State of Maharashtra,; State of Kerala & Ors. v. M. Bhaskaran Pillai & Anr.,; Printers (Mysore) . Ltd. v. M.A. Rasheed & Ors.; Bangalore Development Authority v. R. Hanumaiah, ; and Delhi Airtech Services (P) Ltd. & Anr. v. State of U.P. & Anr.

31. In view of the above, the law can be crystallized to mean, that 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. He becomes persona non-grata once the land vests in the State. He has a right to only receive compensation for the same, unless the acquisition proceeding is itself challenged....."

- **Tamil Nadu Arasu Kooturuvuthurai Oanuyalargal Sangam rep. by its General Secretary P.Soundarrajan & others vs.M.R.Srinivasan and others** reported in **2015 SCC Online Mad 8195** and the relevant paragraphs are extracted hereunder:

"114. It must also be remembered that under the Land Acquisition Act, 1894, a land may be acquired for any public purpose including the purpose of providing housing to a section of the population. The land owner was conferred a very limited right under the Madras City Improvement Trust Act and under the Madras State Housing Board Act. It was a pre-emptive right to purchase the land at a rate as fixed by the Board and that too only



after making an advertisement in a newspaper to see that the amount offered by the original owner is not less than the offers made by outsiders. This facility or limited right for the land owner was not available in the Land Acquisition Act itself but available only in cases where the acquisition was for the purposes of the Madras City Improvement Trust or the Madras State Housing Board.

115. However, in 1997 the State Legislature thought fit to extend a similar benefit, to all land owners, irrespective of whether the acquisition was for carrying out the purposes of the Madras City Improvement Trust Act or the Madras State Housing Board Act. Hence the Legislature amended the Land Acquisition Act, 1894 itself under Tamil Nadu Amendment Act XVI of 1997, incorporating Section 48-B.

116. Thus, the insertion of Section 48B into the Land Acquisition Act, 1894, under Tamilnadu Amendment Act 16 of 1997, was nothing but an attempt to import into the Central Enactment, a provision similar to Section 72 of The Madras State Housing Board Act, 1961. Unless this historical reason is taken note of, it would not be possible to understand the legislative intent behind Section 48B.

117. Keeping in mind, the genesis of Section 48-B, let us take a plain and fresh look at Section 48-B. Though the "Statement of Objects and Reasons" to the Tamil Nadu Act XVI of 1997 merely states that the object of incorporating Section 48-B was to fill up the vacuum in the Land Acquisition Act, 1894, as it did not contain a provision for re-conveyance, the motive force behind the insertion of Section 48-B was to provide a level playing field between the acquisition for the purpose of Housing Board and acquisition for other purposes.

118. But nevertheless, Section 48-B was worded in such a manner that for the exercise of the power conferred therein, the Government should be satisfied that the acquired land was not required (i) either for the purpose for which it was acquired; (ii) or for any other public purpose. A plain reading of Section 48-B would disclose the following essential features.

(A) Section 48-B is not worded in such a manner conferring an indefeasible right upon the original owner to seek a re-conveyance.

(B) The section is also not worded in such a manner as to impose an indefensible obligation upon the



State, to re-convey the land necessarily.

(C) Section 48-B does not use the expression "Where the land is not put to use for the purpose for which it was acquired". The section uses the expression "Wherethe landis not required" for the purpose for which it was acquired or for any other public purpose".

(D) The fact that the land had not been put to use for the purpose for which it was acquired (even if true in a given case), would not lead to the automatic presumption that the land was not required either for the purpose for which it was acquired or for any other purpose.

(E) The true test for the application of Section 48-B, is only to see if the land is required for the purpose for which it was acquired or for any other public purpose. The plain language of Section 48-B does not call for the application of any test to see if the land had actually been put to use for the purpose for which it was acquired.

119. Apart from the fact that the foregoing principles could be culled out even from the plain language of Section 48-B, it could be seen that those principles are in sync with the law laid down by the Supreme Court. On the right of the land owner to seek re-conveyance, the Supreme Court held in *Northern Indian Glass Industries v. Jaswant Singh* [(2003) 1 SCC 335], that "if the land was not used for the purpose for which it was acquired, it was open to the State Government to take action, but that did not confer any right on the respondents to ask for restitution of the land".

120. In *Tamil Nadu Housing Board v. Keeravani Ammal* [2008-1-L.W. 15; (2007) 9 SCC 255], the Supreme Court cautioned in para 16 that "Section 48-B is an exception to the Rule and that such a provision had to be strictly construed and strict compliance with its terms insisted upon". As a matter of fact, the Supreme Court expressed doubts about the validity of Section 48-B, but did not deal with the same as there was no challenge to it. A challenge to the validity of Section 48-B was made by a non-Governmental organization but the challenge was rejected recently by the first Bench of this Court in *Anti-Corruption Movement v. The Chief Secretary to Government of Tamil Nadu* [2015-2-L.W. 97; 2015 (2) CTC 225],



121. The decision in Keeravani Ammal was quoted with approval in Tamil Nadu Housing Board v. L. Chandrasekaran [(2010) 2 SCC 786], In para 28 of the report, the Supreme Court observed in this case that "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".

122. On the question whether the land once vested in the Government could be divested, the Supreme Court held in para 26 of the report in V. Chandrasekaran v. Administrative Officer [2012-5-L.W. 724; (2012) 12 SCC 133], that a land once acquired cannot be restored to the owners, even if it is not used for the purpose for which it was acquired or for any other purpose either.

123. Therefore, it is clear that the original land owners do not acquire a right merely because the acquired land is not used for the purpose for which it was acquired or for any other purpose either. This is the general rule. The exception to this rule is in Section 48-B. But this exception also, as we have pointed out earlier, does not apply to all types of cases where the acquired land is not used for the purpose for which it was acquired or for any other purpose. The exception under Section 48-B applies only to cases where the acquired land is not at all required either for the purpose for which it was acquired or for any other purpose."

27. In view of the above discussion, this Court does not find any legal right for the petitioner to seek for reconveyance of the land, more particularly, when the State has already initiated steps to use the lands for public purpose for issuing 'House Site Patta' to persons belonging to Backward Community (B.C) and Most Backward Community (M.B.C.) and hence, this Court cannot issue a Mandamus and accordingly, the present Writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

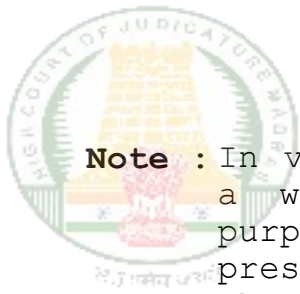
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Law (Legal Education) Department,
Secretariat, Government of Tamil Nadu,
Chennai 600 009
- 2) The Secretary to Government,
Revenue Department,
Secretariat, Government of Tamil Nadu,
Chennai-9.
- 3) The Additional Chief Secretary and
Principal Commissioner for Land Administration,
Ezhilagam, Chepauk, Chennai 600 005
- 4) The District Collector,
Tiruchirappalli - 1

+1 CC to M/s.SPL GP (SR-22286[F] dated 13/07/2021)

+1 CC to M/s.T.ANTONY ARUL RAJ, Advocate (SR-22231[F] dated 13/07/2021)

W.P. (MD) No.2660 of 2014
12.07.2021

RD(20.07.2021) 19P 7C