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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2022

CORAM :

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

WRIT PETITION NO.9485 OF 1986

S.Gopal

... Petitioner

-Vs-

1. The State of Tamilnadu,
Rep.by Commissioner and Secretary to Government,
Housing and Urban Development Department,
Fort St.George, Madras - 600 009

2. The Special Tahsildar (Land Acquisition),
Neighbourhood Scheme,
Namakkal,
Salem District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of the respondents connected with the G.O.M.S.No.538 Housing and Urban Development, dated 7-7-1984 and published in Tamil Nadu Government Gazette dated 18.07.1984 and quash the same in so far as the petitioner's land in S.No.82/2, 82/3, 82/4 and 82/5 in Ayyamperumalpatti village, Salem Taluk of an extent of Ac.3.33 is concerned.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.M.Rajendran
Additional Government Pleader

O R D E R

The Land Acquisition of the year 1984 is put to challenge in the present writ petition.



2. Learned counsel for the petitioner vehemently contended that the writ petition was allowed at the first instance and thereafter the respondent's appeal was dismissed.

3. On appeal by the respondents, the Division Bench has set aside the order and remitted the matter for fresh disposal. In the meanwhile, the similarly placed persons have challenged the acquisition made by the respondents in W.P.No. 44422 & 44496 of 2006 and batch, wherein this Court quashed the 4(1) notification issued for land acquisition by its order dated 15.10.2014. The relevant portion of the order reads as under:

20. The learned senior counsel for the petitioner have by relying on the above G.O., would contend before this Court that the present case falls under para 3 and the land in question is covered under litigation and is not required for further development and hence may be relieved to the land owners. The learned senior counsel for the petitioners has also drawn the attention of this Court to the exemption granted in favour of some of the other owners. It is around by the learned senior counsel for the petitioners, the neighborhood scheme for which the lands are sought to be acquired is yet to be implemented and as Section 4(1) notification was issued as early as on 1981, there is no likelihood of implementation of the same after more than three decades and the lands are no longer required for the formation of such scheme, as such, the petitioners relief for re-conveyance may be considered favourably. This Court finds greater force in the argument so advanced on the side of the petitioners.

21. Thus, viewing from any angle, the entire acquisition proceedings shall be treated as lapsed and the acquisition proceedings in respect of petitioners lands become lapsed and the petitioners are hence untitled to get re-conveyance of their lands and therefore, the respondents are to be directed to re-convey the petitioners land in question.

4. From the findings given by this Court in the above batch of writ petitions, it is noted that the entire scheme is not taken up and there is no scope for implementing in the present circumstances, in view of the new Act ie., Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Therefore, it is clear that the land acquisition proceedings got lapsed.



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5. Recording the same, this writ petition stands allowed.
There shall be no order as to costs.

Sd/-
Assistant Registrar(L.A)

//True Copy//

Sub Assistant Registrar

sha/kpr

To

1. The Commissioner and Secretary to Government,
Housing and Urban Development Department,
State of Tamilnadu,
Fort St.George, Madras - 600 009
2. The Special Tahsildar (Land Acquisition),
Neighbourhood Scheme,
Namakkal,
Salem District.

+2ccs to M/s.C.Prakasam, Advocate, S.R.No.21974

+1cc to the Government Pleader, S.R.No.22243

W.P.No.9485 of 1986

SSN(CO)
RLP(27/04/2022)