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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.10910 of 2013

1. Somasundaram
2. Saravanan
3. Kumar
4. Thilagavathi
5. Pugaqzhendhi (Deceased)
6. Anbarasu
7. Ganesan
8. Velu
9. Tharabai
10. Madhavi
11. Karunambigeswari
12. P. Roja
13. P. Bharani
14. P. Usharani

... Petitioners

(P12 to P14 substituted as LRs of deceased 5th petitioner, vide order dated 05.04.2022 in W.M.P.No.8054 of 2022)

Vs.

1. The State of Tamil Nadu
Rep. by Commissioner and Secretary to Government
Housing and Urban Development,
Fort St. George, Chennai - 9.
2. The District Collector,
Chennai District,
Singaravelan Maligai,
Chennai - 600 001.
3. The Special Tahsildar (L.A.),
Tamil Nadu Housing Board,
Anna Salai, Chennai - 35.
4. The Chairman,
Tamil Nadu Housing Board,
Nandanam, Chennai - 35.



5. The Chairman and Managing Director,
Chennai Metro Water & Sewage Board,
Chintadripet, Chennai - 2.

...Respondents

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Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the 3rd respondent resulting in the submission of his impugned report to the 2nd respondent vide proceedings Na.Ka.D1/473/2012 dated 17.05.2012 and quash the same as illegal and further direct the 2nd respondent to pay compensation at the prevailing market rate in respect of the petitioners' land comprised in Survey No.98/2A2 measuring about 14 Cents at Kannappa Nagar, Thiruvannamiyur, Chennai - 600 041 acquired under G.O.Ms.No.667, Housing and Urban Development dated 8th August 1981 and further directing the 1st and 4th respondents to re-convey a portion of the land measuring about 972 sq.ft., along with the unused pathway lying on the western side of the pumping station built within the acquired property and leading to the said portion of the land, the possession of which was not taken over by the fourth respondent herein.

For Petitioners : Mr.M.Ganesan

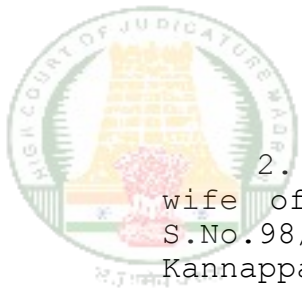
For Respondents : Mr.R.Vigneswaran, GA, for R1 to R3

: Mr.M.Baskar, for TNHB

: Mr.C.Janakiraman for R5

O R D E R

The petitioner has filed this writ petition seeking issuance of a Writ of Certiorari Mandamus to call for the records of the proceedings in Na.Ka.D1/473/2012 dated 17.05.2012 of the 3rd respondent, quash the same as illegal and consequently, direct the 2nd respondent to pay compensation at the prevailing market rate in respect of the petitioners' land acquired under G.O.Ms.No.667, Housing and Urban Development dated 08.08.1981 and also to direct the 1st and 4th respondents to re-convey a portion of the land measuring about 972 sq.ft., along with the unused pathway lying on the western side of the pumping station built within the acquired property and leading to the said portion of the land, the possession of which was not taken over by the fourth respondent herein.



2. The case of the petitioners is that, one Rajeswari Ammal, wife of the 1st petitioner owned a vacant land comprised in S.No.98/2A2, measuring an extent of 14 cents, situated at Kannappa Nagar, Thiruvannamiyur, Chennai-41. The above said land was acquired by the Tamil Nadu Government for the purpose of Housing scheme and notification under section 4(1) of the Land Acquisition Act (in short 'Act') was issued vide G.O.Ms.No.1096, Housing and Urban Development dated 17.07.1978 and the declaration notification under Section 6 of the Act was issued vide G.O.Ms.No.667, Housing and Urban Development dated 06.08.1981 and subsequently, an Award was also passed in Award No.7/86 on 23.09.1986. In the mean while, certain disputes arose in respect of a portion of land measuring 972 sft in the above said acquired land, as it was encroached upon by one Padmanabha Dutt and he also filed a suit in O.S.No.6687 of 1992 before the V Assistant Judge, City Civil Court, Chennai, for permanent injunction as against the said Rajeswari Ammal and when the same was pending, the said Padmanabha Dutt received a notice dated 27.06.1996 from the TamilNadu Housing Board stating that the suit property forms a major part of the said Rajeswari Ammal's land, which was acquired and transferred to Chennai Metropolitan Water Supply and Sewage Board (in short 'CMWSSB') for construction of pumping station. Further, it is pertinent to note that, the said Rajeswari Ammal came to know about the entire acquisition proceedings only after the said notice dated 27.06.1996 and pursuant to which, she filed a Writ petition in W.P.No.11668 of 1996, challenging the said acquisition proceedings initiated as against her land. However, during the pendency of the Writ petition, the said Rajeswari Ammal / wife of the 1st petitioner passed away and the legal heirs were brought on record and the said writ petition was dismissed on 23.04.2004 and the same was also confirmed by the Division Bench of this Court in Writ Appeal in W.A.No.1761 of 2005, vide order dated 10.11.2005.

3. It is the further case of the petitioner that, after enquiry, the petitioners came to know that a paltry sum of Rs.1/- per cent and totally Rs.14/- was awarded for the acquired land. Further, they came to know about the proceedings in LAOP Court, filed by the 2nd respondent under Section 31 and 32(1) of the said Act, which was closed by the VI Assistant Judge, City Civil Court, Chennai, vide order dated 01.04.1991. However, it is to be noted that, the said suit in O.S.No.6687 of 1992 was dismissed, vide decree dated 25.02.2002, confirming that, said Rajeswari Ammal is the owner of the suit property. Thereafter, the 1st petitioner submitted a representation dated 15.11.2010 before the 5th respondent, for payment of compensation and re-conveyance of the unused land, however, no orders have been passed on the same. Aggrieved by the inaction of the 5th respondent, the 1st petitioner filed a writ petition in



W.P.No.976 of 2012 and the same was disposed of, vide order of this Court dated 19.01.2012, directing the 1st petitioner to submit an application before the 1st respondent for re-conveyance of the unused portion of the disputed property and also another application before the 2nd respondent for payment of compensation for the acquired and subsequently, directed the respondents to consider the same and pass orders within a period of twelve weeks. In pursuance of the order of this Court, the petitioners 1 to 11 made a representation dated 24.02.2012 before the 2nd respondent for payment of fair compensation for the acquired land, and the 1st petitioner made another representation dated 24.02.2012 before the 1st respondent for re-conveyance of the unused land, however, no orders have been passed in the said applications.

4. While such being the case, the petitioners 1 to 11 received a copy of the proceedings / report of the 3rd respondent sent to the 2nd respondent, vide Na.Ka.D1/473/2012 dated 17.05.2012, in which, the 3rd respondent has recommended for rejection of the petitioners' representation. Aggrieved by the said proceedings / report dated 17.05.2012, the 1st petitioner sent a detailed reply dated 11.06.2012 to the 2nd respondent, however, till date, the same was not considered and no orders have been passed on the same. Further, the Tamil Nadu Housing Board, Nandanam, vide reply dated 21.09.2012 to the RTI query made by the 2nd petitioner herein, confirmed that the suit property measuring an extent of 972 sft was not handed over to CMWSSB. However, till date, the order of this Court has not been complied with by the respondents and the petitioners were neither paid with the compensation nor the unused land was re-conveyed in favour of the petitioners. Hence, challenging the said report dated 17.05.2012 sent by the 3rd respondent to the 2nd respondent, the present Writ petition is filed.

5. Though very many grounds have been raised, learned counsel for the petitioners fairly submitted that, recently they came to know that after passing of Award, the matter was referred under Section 31 and 32(1) of Land Acquisition Act to the competent Civil Court in LAOP No.41 of 1988 on the file of the VI Assistant Judge, City Civil Court, Chennai and the same was dismissed for non prosecution, as neither the said Rajeswari Ammal nor the petitioners herein were served with notice regarding the same. Hence, he prayed for permission of this Court, to proceed with the order passed in the LAOP.No.41 of 1988 in the manner known to law.

6. In view of the fair submissions made by the learned counsel for the petitioners, this Court without interfering with the order / report under challenge, grants permission to the petitioners to challenge the order passed in the LAOP. No.41 of



1988 on the file of the VI Assistant City Civil Court in the manner known to law.

7. With the above observations, this Writ Petition is disposed of. No costs.

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Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

1. The State of Tamil Nadu
Rep. by Commissioner and Secretary to Government
Housing and Urban Development,
Fort St.George, Chennai - 9.
2. The District Collector,
Chennai District,
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Anna Salai, Chennai - 35.
4. The Chairman,
Tamil Nadu Housing Board,
Nandanam, Chennai - 35.
5. The Chairman and Managing Director,
Chennai Metro Water & Sewage Board,
Chintadripet, Chennai - 2.

+1cc to Mr.M.Ganesan, Advocate, S.R.No.24773

+1cc to the Government Pleader, S.R.No.25476

W.P.No.10910 of 2013

KV(CO)
SU(01/06/2022)