



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.04.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.8190 of 2022
and
W.M.P.No.8188 of 2022

1.V.Bharatihi Kannan
2.V.Bakkiyam
3.Arunadevi

... Petitioners

Vs.

1. The Secretary,
Tamil Nadu Housing and Urban Development Department,
Fort St.George,
Chennai-09.
2. The Managing Director,
Tamil Nadu Housing Board,
Anna Salai,
No.331, Nandhanam,
Chennai-35.
3. The Special Tahsildar,
Land Acquisition,
Tamil Nadu Housing Board,
Tirupathur Taluk,
Tirupathur District.
4. The Managing Director and Executive Engineer,
Tamil Nadu Housing and Urban Development Department,
Tirupathur District,
Tirupathur.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to re-convey thte land to the petitioners as per the representation dated 29.12.2020 situated in Survey No.163/2 at Tirupathur Taluk, Tirupathur District and which was acquired by the respondents office by the land acquisition proceedings by their award dated 06.11.1987 in award No.2/87-88/A1. 15707/83 for the construction of Houses.



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For Petitioners : Mr.N.Stalin
For R1 and R3 : Mr.P.Sathish
Additional Government Pleader
For R2 and R4 : Mr.Tamil Priyan
for TNHB

O R D E R

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus, to direct the respondents to re-convey the land to the petitioners as per the representation dated 29.12.2020 situated in Survey No.163/2 at Tirupathur Taluk, Tirupathur District and which was acquired by the respondents office by the land acquisition proceedings by their award dated 06.11.1987 in award No.2/87-88/A1. 15707/83 for the construction of Houses.

2. The learned Additional Government Pleader takes notice for the official respondent. In view of the limited relief sought for in this petition and on the consent of the learned counsel appearing on either side, this petition is taken up for final disposal.

3. The case of the petitioner is that the petitioners is one of the legal heirs of his father namely T.P.Vadivelu. The petitioner's father has purchased the property in Survey No.163/2, situated at Tirupathur, Tirupathur District on 16.02.1983 from one Venugopal for an extent of 8 $\frac{1}{4}$ Cents of land and the same was registered vide Document No.386 of 1983, on the file of the Sub-Registrar office, Tirupathur. The said Venugopal sold another 81/4 Cents of land to one Krishnamurthy. Remaining 21 $\frac{1}{2}$ Cents of land was in possession of Venugopal. The petitioner's land measuring 8 $\frac{1}{4}$ Cents situated in Survey No.163/2 was acquired by the 3rd respondent office for the Tamil Nadu Housing Board for construction of houses by the 3rd respondent's acquisition proceedings in Award NO.2/87-88/A1 15707/83, dated 06.11.1987. The 3rd respondent has also deposited the award amount of Rs.6,515 before the Sub Court, Tirupathur. The said Venugopal filed I.A.No.33 of 1999, before the transferor Court and obtained the compensation by making mis representation before the Court, as if the entire land was with him by suppressing the sale made between petitioner's father/T.P.Vadivelu and the said Venugopal. However, the real owner namely the petitioner's father has not received any compensation amount and the same amount was lying in the said



Court. While so, the petitioner father died in the year 1995 leaving behind the petitioner and other legal heirs. Except this land no other land is available to the petitioner's family and till date the acquired land was not utilized by the Government, hence in order to re-convey the said property the petitioner made representation on 29.12.2019 to the respondents. Since no steps was taken the petitioner sent remainder letter on 29.12.2021. However, till date no orders have been passed. Hence, this Writ Petition is filed with the aforesaid prayer.

4. The learned counsel for the petitioner submitted that it would suffice if this Court issue direction to the respondents to consider the petitioner's representation in terms of Section 48(B) of the Land Acquisition Act.

5. The learned standing Counsel appearing on behalf of the Tamil Nadu Housing Board submitted that the earlier Land Acquisition Act was repelled by way of Right to Fair Transparency of Land Acquisition Act, 2013 and the said earlier provision 48(B) was repelled and no similar provisions available in the new Act. However, as per Section 101 of the Right to Fair Compensation Act, any un-utilized land can be returned to the original owner. However in the present case the entire land was utilized and house lay outs are also given to the third parties. Hence, no land is available to return to the petitioner. Accordingly, he prayed for the dismissal of this petition.

6. The facts in the present case is not in dispute, admittedly, the petitioner's father namely T.P.Vadivelu purchased the property from Venugopal. As against the said Venugopal the land Acquisition proceedings were initiated in the year 1987. After lapse of 3 decades the petitioner made application for re-conveyance of the land under Section 48(B) of the Land Acquisition Act. It is clear that the earlier Land Acquisition Act was repelled by way of Right to Fair Transparency of Land Acquisition Act, 2013 and there is no provision available for re-conveyance, however as per Section 101 of the Right to Fair Transparency of Land Acquisition Act, 2013 the government can return the un-utilized land to the original owners. However, the learned Standing Counsel submitted that the land was utilized by the Government and no land is available for returning to the petitioner. The petitioner is subsequent purchaser of the said Venugopal and he has no right to file application for re-conveyance or return of the un-utilized land. Hence, the prayer sought for in this petition cannot be granted.



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7. With the above observation, this Writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(LA)

//True Copy//

Sub Assistant Registrar

Psa

To

1. The Secretary,
Tamil Nadu Housing and Urban Development Department,
Fort St.George,
Chennai-09.
2. The Managing Director,
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4. The Managing Director and Executive Engineer,
Tamil Nadu Housing and Urban Development Department,
Tirupathur District,
Tirupathur.

+1cc to M/s.S.Vanchinathan, Advocate, S.R.No.23499

+1cc to the Special Government Pleader, S.R.No.23623

W.P. No.8190 of 2022

SKM(CO)
SU(22/04/2022)