



W.P.No.14690 of 2012

M.DHANDAPANI, J.

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Today, this matter is listed under the caption “For Being Mentioned” at the instance of the learned counsel for the petitioner.

2. Learned counsel appearing for the petitioner submitted that, though he was present on 29.11.2022 and advanced his arguments effectively, his appearance was not marked in the order dated 29.11.2022 made in W.P.No.14690 of 2012. Further, the appearance of Mr.G.Karthikeyan, learned Senior counsel appearing for the 2nd respondent was also not marked. Hence, this Court may direct the registry to carry out the necessary corrections in the order copy dated 29.11.2022 and re-issue fresh order copy.

3. Though the learned counsel for the petitioner appeared and made arguments, however, inadvertently, the Court Officer has not marked his appearance. Accordingly, the appearance of the learned counsel for the petitioner as well as 2nd respondent shall be marked in the order dated 29.11.2022 and para no.2 of the order shall stand deleted.

4. Further, a perusal of the signed order dated 29.11.2022 with the order copy, which has been issued to the parties, reveal that the copy which



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has been provided to the parties is the draft of the signed order, which has been wrongly transferred to the server.

5. Accordingly, while para No.2 of the order dated 29.11.022 shall stand deleted, Registry is directed to issue a fresh copy of the order, in line with the order, which has been signed by this Court and steps shall be taken by the Registry to ensure that the order dated 29.11.2022 signed by this Court shall stand drafted along with the necessary corrections aforesaid while issuing a fresh copy to the parties and the same shall stand reflected in the server.

6. All the other observations and conditions made in the earlier order dated 29.11.2022 shall remain intact, except for the above said correction.

7. Registry is directed to carry out the necessary correction in the order dated 29.11.2022 and issue a fresh copy of the order to the learned counsel for the parties.

30.03.2023

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M.DHANDAPANI., J.



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30.03.2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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W.P.No.14690 of 2012

DATED: 29.11.2022

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.14690 of 2012

and

M.P.Nos.1 & 2 of 2012

Dollar Company Private Ltd.,
Represented by its Managing Director,
Government of Tamilnadu
Fort St.George,
Chennai-600 004.

. . . Petitioner

Vs.

1. The Secretary,
Highways, Minor Port Department
Government of Tamil Nadu,
Fort St.George,
Chennai-600 009.

2. The Chairman,
Chennai Port Trust,
Rajaji Salai,
Chennai-600 001.

3. The Collector of Chennai (Madras)
Singaravelan Maligai,
Rajaji Salai,
Chennai-600 001.

. . . Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India,
to issue a Certiorarified Mandamus or order or direction in the nature of
Writ Calling for the records in respect of the order dated 06.04.2011 of the



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First Respondent vide G.O.Ms.No.54, Highways and Minor Ports (HF2) department and quash the same and direct the First Respondent to reconsider its decision in exercise of Power Under Section 48 B of Land Acquisition Act and pass fresh orders in the light of the decision reported in 2006 (4) CTC 290 as directed by the Division Bench of this Hon'ble Court in its order dated 12.01.2009 in W.A.No.2686/2003.

For Petitioner : No Appearance

For Respondent : Mr.K.M.D.Muhilan,
Government Advocate for R1 & R3.

ORDER

The present petition has been filed seeking to quash the impugned order dated 06.04.2011 which was passed by the 1st Respondent vide G.O.Ms.No.54, Highways and Minor Ports (HF2) department and to direct the First Respondent to reconsider its decision in exercise of Power Under Section 48 B of Land Acquisition Act and pass fresh orders in the light of the decision reported in 2006 (4) CTC 290 as directed by the Division Bench of this Hon'ble Court in its order dated 12.01.2009 in W.A.No.2686/2003.

2. Despite very many opportunities, the counsel for the petitioner had not come forward to prosecute the case. Even today there is no



appearance for the petitioner. Since, this Writ Petition is of the year 2017, this Court is inclined to take up the matter for final disposal and decide the same on merits based on the materials available on record.

3. It is the case of the petitioner that the land comprised in Survey Numbers 4031/1 & 4041/1 with R.S.No.4032/1, was purchased by the petitioner vide the sale deed dated 17.10.1958. The land in R.S.No. 4032/1 measuring to an extent of 5 Cawnies 7 Grounds 1614 square feet of laid for public purpose, was acquired by the Government of Tamil Nadu, invoking the urgency clause under Section 17 of the Land Acquisition Act, 1894 vide G.O.R.No.984, dated 30.07.1959, by issuance of notification under Section 4(1) of the Act for the formation of Housing Colony for Chennai Port Trust Employees, pursuant to which, in the year 1996, the 2nd Respondent had put up a Sporting Complex in the said land. Challenging the above acquisition, the petitioner filed a Writ Petition before this Court in W.P.No.3417 of 1996 which was dismissed on 10.06.2003 against which, Writ appeal was preferred before the Hon'ble Division Bench of this Court in W.A.No.2686 of 2003, which was disposed of granting liberty to the petitioner to file the petition for re-conveyance of the lands under Section 48(b) of the Act,



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pursuant to which, the petitioner made an application seeking for re-conveyance before the 1st Respondent, however, the said application was rejected vide the present impugned order dated 06.04.2011. Challenging the same, the present petition has been filed.

4. Learned counsel appearing for the petitioner submits that the purpose for which the lands were acquired having not fructified, the petitioner is entitled to invoke Section 48(B) to claim re-conveyance of the lands and the act of the respondents in not acceding to the request of the petitioner is wholly unsustainable.

5. On the above contentions, this Court, heard the learned Government Advocate appearing for the respondents and perused the materials available on record.

6. It is evident from the materials available on record that the petitioner's land was acquired for the purpose of construction of housing colonies for the Chennai Port Trust employees and possession was taken from the petitioner. Further, pursuant to the said acquisition, award was



passed in respect of the petitioner's land and the compensation amount was also received by the petitioner.

7. However, it is the claim of the petitioner that, the land which was acquired has not been utilized for the purpose for which it was acquired. It is to be pointed out, that, once the land has been acquired and compensation has been paid, it is within the domain of the acquisition body to utilize the land for public purpose and the petitioner, as a matter of right, cannot claim re-conveyance for the mere reason that the lands have not be utilized for the purpose for which it was acquired. That apart, the acquisition proceedings have been completed and the subject land was taken over by the Government more than two decades back.

8. The above view of this Court finds support from the decision of the Hon'ble Apex Court in the case of ***Tamil Nadu Housing Board Vs. Keeravani ammal and others reported in AIR 2007 SC 1691***, where it has been held as under:-

“11. We may also notice that once the piece of land has been duly acquired under the Land Acquisition Act, the land becomes the property of the State. The State can dispose of the property thereafter or convey it to anyone, if



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*the land is not needed for the purpose for which it was acquired, only for the market value that may be fetched for the State from giving back the property for anything less than the market value. In **State of Kerala and Ors. v.M.Bhaskaran Pillai and Anr.**Manu/SC/0731/1997: AIR1997SC2703 in a similar situation, this Court observed :*

The question emerges : whether the Government can assign the land to the erstwhile owners? It is settled law that if the land is acquired for a public purpose, after the 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. In the Present case, what we find is that the executive order is not in consonance with the provision of the Act and is, therefore, invalid. Under these circumstances, the Division Bench is well justified in declaring the executive order as invalid. Whatever assignment is made, should be for a public purpose. Otherwise, the land of the Government should be sold only through public auctions so that the public also gets benefited by getting higher value.

Section 48B Introduced into the Act in the State of Tamil Nadu is an exception to this rule. Such a Provision has to be strictly construed and strict compliance for its validity, we are not called upon to decide here.

12. We are thus of the view that the Writ Petitioners, the contesting respondents, have not made out any case for interference by the Court for interference by the Court or for grant of any relief to them. It is therefore not necessary for us to go into the further contention raised on the scope of Section 48B of the Act, whether the writ petitioners have established any claim to the lands,



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whether if possession has already been made over to the Housing Board, the State could exercise its power under that provision. We leave open those questions for the High Court of consider as and when the occasion arises on it being approached in the context of Section 48B of the Act. Suffice it to say that the decision of the High Court in Writ Petition in question is totally unsustainable and deserves to be set aside.”

9. In view of the above decision which is squarely attracted to the present case on hand, the prayer sought for cannot be granted and the Writ Petition is accordingly dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

29.11.2022

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Index : Yes / No

Internet : Yes / No

To:

1. The Secretary,
Highways, Minor Port Department
Government of Tamil Nadu,
Fort St.George, Chennai-600 009.
2. The Chairman,
Chennai Port Trust,
Rajaji Salai, Chennai-600 001.

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3. The Collector of Chennai (Madras)
Singaravelan Maligai,
Rajaji Salai, Chennai-600 001.



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