



W.P.No.18382 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2022

CORAM:

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

W.P.No.18382 of 2013

and

W.M.P.Nos.34094 & 34102 of 2019

1. P.Velumani
2. V.Krishnaveni
3. A.Manian
4. N.Karuppanna Gounder
5. D.Kalaiselvi
6. K.Ramakrishnan

. . . Petitioners

Vs.

1. State of Tamil Nadu representation
By Secretary to Government,
Housing and Urban Development Department.,
Fort St.George,
Chennai-600 009.
2. Tamilnadu Housing Board,
Rep by its Managing Director,
Nandanam,
Chennai-600 035.



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3. Executive Engineer cum Administrative officer,
Coimbatore Housing Scheme Unit,
Tamilnadu Housing Board,
Tatabad,
Coimbatore-600 012.

. . . Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus or any other writ or order or direction in the nature of writ calling for the records relating to the proceedings of the first respondent in Letter No.16184/LA 3 (2)/2011/6 dated 15.4.2013, quash the same, direct the first respondent to re-convey the land in Plot No.58 (5 cent 267 Sq.ft), Plot No.59 (5 cent 267 Sq.ft), Plot No.56 (Plot No.6 cent 226 Sq.ft), Plot No.51 (6 cent 43 Sq.ft), Plot No.50 (5 cent 422 Sq.ft) and Plot No.54 (6 cent 146 Sq.ft) respectively comprising in Survey No.811/1 of Kalapatti Village, Coimbatore District, to the Petitioners.

For Petitioner : M/s. R.N.Amarnath

For Respondents : Mr.U.Bharanidharan,

Additional Government Pleader for R1

: Mr. D.Murugan,

Standing Counsel for TNHB for R2 & R3.



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ORDER

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The present petition has been filed seeking to quash the proceedings dated 15.04.2013 passed by the 1st Respondent and direct the first respondent to re-convey the subject lands of this Writ Petition.

2. It is the case of the petitioners have purchased the lands comprised in Survey No.811/1 to an extent of 2.26 acres, Kalapatti Village, Coimbatore District which was developed as approved House site Lay out. Initially, in the year 1987, a vast extent of 1973.74 acres of lands in Kalapatti Village were acquired by the 1st respondent under a scheme known as 'Kalapatti Neighbourhood Scheme'. Out of the entire extent of lands, acquisition proceedings with regard to certain extent of lands were lapsed, however, the remaining extent of lands were re-conveyed by the Government in favour of the land owners under Section 48B of the Act, as per the direction of this Court in W.P.No. 16417 of 1998 vide its order dated 30.08.2010, which order was confirmed by the Division Bench of this Court in W.A.Nos.252 to 255 of 2011 vide order dated 16.08.2011 and also by the Hon'ble Supreme Court in SLP (C) Nos.6063 to 6066/2012 vide order dated



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13.04.2012.

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3. It is the further case of the petitioners that, in the year 2010, 3rd respondent issued a public notice inviting applications under a self Finance Scheme for allotment of 35 houses proposed to be constructed in the lands belonging to the petitioners, under the category of HIG and MIG at Kalapatti Village. On enquiry, it was revealed that the petitioner's land were subjected to the acquisition proceedings, however, till date, no possession has been taken and the petitioners are absolute possession and enjoyment of the said lands. The petitioners being the bonafide purchasers have made a representation to the 1st respondent seeking re-conveyance of above lands, however, the said representation was rejected by the 1st respondent vide the impugned order dated 15.04.2013 on the ground that revision petition has been filed as against the order dated 13.04.2012 passed in SLP (C) Nos.6063 to 6066/2012. Aggrieved by the order passed by the 1st respondent, the petitioners have come up with the present petition.



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4. Learned counsel for the petitioners placing his reliance upon the decision of the Division Bench of this Court in W.A.Nos.252 to 255 of 2011 order dated 16.08.2011 and submits that already the similarly situated persons were granted relief in the aforesaid order, the benefit of the aforesaid order may also be extended to the petitioners herein as well.

5. On the above contentions, this Court, heard the learned Additional Government Pleader appearing for the 1st respondent, learned standing counsel appearing for respondents 2 & 3 and perused the materials available on record.

6. It is borne out by the materials available on record that, this Court in W.P.No.16417 of 1998 had quashed the entire acquisition proceedings vide its order dated 30.08.2010 and the acquired lands were directed to be re-conveyed to their respective land owners, which order was confirmed by the Division Bench of this Court in W.A.Nos. 252 to 256 of 2011 vide order dated 16.08.2011 wherein, the petitioners were the subsequent purchasers of the subject lands against which, SLP (C) Nos.6063 to 6066/2012 in the



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came to be filed before the Hon'ble Apex Court. Pursuant to the orders of this Court, acquired lands were re-conveyed to the original owners. The petitioners herein being the subsequent purchasers, are also eligible to avail the benefit of the order passed by the Division Bench as the present case of the petitioners pertains to the very same acquisition.

7. A perusal of the order impugned reveals that the petitioner's claim for re-conveyance has been rejected mainly on the ground that revision petition has been filed as against the order of the Hon'ble Apex Court. However, when the matter is taken up for hearing, it was submitted that said revision petition was dismissed on 11.07.2013 and therefore the same cannot be a bar for extending the very same relief to the petitioners herein which was granted in the order passed by this Court in W.A.Nos. 252 to 256 of 2011 vide order dated 16.08.2011. Therefore, necessarily, the order impugned in this Writ Petition is liable to be set aside.

8. The relevant portion of the order passed by the Division Bench of this Court in W.A.Nos.252 to 256 of 2011 is extracted here as under:



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“ 11. It was further contended that the Respondents/Writ Petitioners were subsequent purchasers, therefore, not entitle to any relief. It is noticed that Tmt.K.Palaniammal in whose favour, an order of re-conveyance was passed, was also a subsequent purchasers having purchased the land from the legal heirs of the original land owner, without being aware of the Land Acquisition Proceedings. In the instant case also, the Respondents/Writ Petitioners are subsequent purchasers from the original owner and it is stated that the Writ Petitioners have obtained a building plan approval from the Local Planning Authority, constructed a house on the plot and are residing there. Therefore, we see no difference between the case of the Respondents/Writ Petitioners and that of Tmt. K.Palaniammal, it would undoubtedly be discriminatory, thereby offending Article 14 of the Constitution of India.

18. It is, therefore, evidently clear that in number of cases the Government on the basis of the recommendations of the Expert Committee accepted the requests of the land-owners and took a decision to re-convey their lands. But, at the same time, in respect of some of the representations the Government took the decision otherwise and rejected the request of re-conveyance of the land. Such action of the respondents prima facie appears to be arbitrary, capricious, discriminatory and violative of Article 14 of the Constitution of India “

9. In view of the above discussed, this Court is inclined to set aside the order passed by the 1st respondent and the same is accordingly, set aside.



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Further, the 1st respondent is directed to re-convey the acquired lands in favour of the petitioners and the said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

10. Accordingly, this Writ Petition is allowed with the aforesaid direction. No Costs. Consequently, the connected Miscellaneous Petitions are closed.

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Index : Yes / No

Internet : Yes / No



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To

1. Secretary to Government,
State of Tamil Nadu representation
Housing and Urban Development Department.,
Fort St.George,
Chennai-600 009.
2. The Managing Director,
Tamilnadu Housing Board,
Nandanam,
Chennai-600 035.
3. Executive Engineer cum Administrative officer,
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M.DHANDAPANI, J.

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