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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2022

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.7235 OF 2014

N.Chinnammal

... Petitioner

.Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Secretariat,
Chennai - 600 009.

2. The Chairman,
The Tamil Nadu Housing Board,
493, Anna Salai, Nandanam,
Chennai - 600 035.

3. The District Collector,
Erode District,
Erode - 638 011.

4. The Executive Engineer and Administrative Officer,
The Tamil Nadu Housing Board,
Erode Housing Unit Division,
E.V.N.Road, Surampatti Four Road,
Erode - 638 009.

5. The Special Tahsildar,
Land Acquisition Neighbourhood Scheme,
Surampatti Four Road,
Erode - 638 009.

... Respondents

PRAYER:-

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to Letter No.La.1/165/08 dated 20.02.2014 issued by the fourth respondent and quash the same insofar as it relates to lands to an extent of 0.31.0 hectare comprised in Survey No.752/3 and extent of



0.77.0 hectare comprised in Survey No.762/2A belonging to petitioner's husband and to consequently direct the respondents to consider the representation given by the petitioner dated 16.12.2013 afresh and pass an order to exclude the said lands situated at Kasipalayam Village, Erode Taluk, Erode District from the purview of land acquisition proceedings in pursuance to the Resolution No.8.04 passed by Tamil Nadu Housing Board on 30.01.1995.

For Petitioner : M/s.T.Kokilavane

For Respondents : Mr.G.Ameedius
Government Advocate
(for R1, R3 & R5)

Mr.I.Sathish
Standing Counsel
(for R2 & R4)

O R D E R

* The learned counsel for the petitioner seeks permission of this Court to withdraw the Writ Petition.

* 2. Recording the submission made by the learned counsel for the petitioner, this Writ Petition is dismissed as withdrawn with liberty to make a fresh representation citing the order passed by this Court in other Writ Petitions arising out of Award Nos.3 and 4 of 1994. No costs.

**** This writ petition has been filed to issue a Writ of Certiorarified Mandamus calling for the records relating to Letter No.La.1/165/08 dated 20.02.2014 issued by the fourth respondent and quash the same insofar as it relates to lands to an extent of 0.31.0 hectare comprised in Survey No.752/3 and an extent of 0.77.0 hectare comprised in Survey No.762/2A belonging to petitioner's husband and to consequently direct the respondents to consider the representation given by the petitioner dated 16.12.2013 afresh and pass an order to exclude the said lands situated at Kasipalayam Village, Erode Taluk, Erode District from the purview of land acquisition proceedings in pursuance to the Resolution No.8.04 passed by Tamil Nadu Housing Board on 30.01.1995.**

**** 2. The case of the petitioner is that the land comprised in survey No.752/3 to an extent of 0.31.0 hectares and the land comprised in survey No.762/2A to an extent of 0.77.0 hectares**



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situated at Kasipalayam Village, Erode owned by the petitioner's husband. While being so, the said land was acquired by the fifth respondent and award has been passed in Award Nos.1 of 1994 and 2 of 1994 dated 22.05.1995 and 10.06.1994 respectively. The subject lands were acquired for the purpose of constructing houses in Erode Housing Unit and divided as Block Nos.1 and 2 by the fourth respondent. The petitioner's husband and the other adjacent land owners had challenged the acquisition proceedings in a batch of writ petitions before this Court and sought for exclusion of their respective lands including the subject land in this writ petition. However, the petitioners were given liberty to make a representation before the Tamilnadu Housing Board and disposed the writ petitions on 06.08.2001. In pursuant to the order passed by this Court, the petitioner's husband failed to make any representation to exclude the subject land from the acquisition. The fourth respondent requested the second respondent to consider the request for exclusion of their lands. Accordingly, some of the lands were excluded from acquisition proceedings on receipt of necessary development charges in respect of their respective lands. Thereafter, the husband of the petitioner died and the petitioner filed writ petition only in the year 2013 to exclude the subject land from the acquisition proceedings. By the impugned order dated 20.02.2014, the request made by the petitioner was rejected for the reason that in respect of the subject land, after the award, it was sub divided and utilised for the Muthampalayam Project.

** 3. Heard, M/s.T.Kokilavane, the learned counsel for the petitioner, Mr.G.Ameedius, Government Advocate appearing for respondents 1, 3 & 5, and Mr.I.Sathish, Standing Counsel appearing for respondents 2 & 4.

** 4. On perusal of the counter filed by the fourth respondent, also revealed that after passing award No.1 of 1995 dated 22.05.1995 for the subject land, the compensation amount of Rs.47,710/- had been deposited in the civil court as contemplated under Section 31 (2) of the Land Acquisition Act, 1894. That apart, the subject land is situated in between the Muthampalayam Neighbourhood Scheme Phase II and III and as such the subject land is essentially needed for the implementation of comprehensive housing scheme of the Muthampalayam Phase III scheme. Thus, the subject lands to an extent of 0.31.0 hectares and 0.77.0 hectares situated at Erode C village, Erode Taluk, Erode District is essentially needed for formation of Housing Scheme Muthampalayam Phase III at Erode. In fact, in respect of the petitioner, the request for exclusion of the subject land from the acquisition was already rejected by the Government vide



letter No.4544/NA3(1)/2008-21 dated 12.03.2012. Based on the Government Order, the fourth respondent rightly rejected the request made by the petitioner by order dated 20.02.2014. Therefore, this Court finds no infirmity or illegality in the order passed by the fourth respondent. As such, this writ petition is devoid of merits and liable to be dismissed.

**** 5. Accordingly, this writ petition is dismissed. No order as to costs.**

*** Deleted**

**** Now Substituted as per order dated
21/01/2022 in W.P.No.7235 of 2014**

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
The State of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George, Secretariat,
Chennai - 600 009.
2. The Chairman,
The Tamil Nadu Housing Board,
493, Anna Salai, Nandanam,
Chennai - 600 035.
3. The District Collector,
Erode District,
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Erode - 638 009.



5. The Special Tahsildar,
The Land Acquisition Neighbourhood Scheme,
Surampatti Four Road,
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+1cc to M/s.Vaani & Menon, Advocate, S.R.No.4161

+1cc to Mr.I.Sathish, Advocate, S.R.No.3638

+1cc to Mr.I.Sathish, Advocate, S.R.No.1773

[27/04/2022]

W.P.NO.7235 OF 2014

SRA (CO)
PBS/09/02/2022