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W.P.No.29534 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2022

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THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.29534 of 2022
and
WMP.Nos.28916 & 28917 of 2022

1. S.Elumalai
 2. A.Pathamanaban
 3. P.Gokulnath
 4. E.Kannan
 5. K.Mohana
 6. N.Murthy
- ...Petitioners

Vs.

1. The Chief Secretary to the Tamil Nadu Government,
Fort St. George, Chennai - 600 009.
2. The Secretary to the Tamil Nadu Government,
Housing & urban Development Department,
Fort St. George, Chennai - 600 009.
3. The Chairman,
Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam, Chennai - 600 035.
4. The Executive Engineer-cum-Administrative Officer,
Tamil Nadu Housing Board,
K.K.Nagar Division,
No.C-48, 3rd Floor, 2nd Avenue,



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Anna Nagar, Chennai - 600 040.

...Respondents

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Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to consider petitioner's representation dated 11.08.2022 and to pay the reasonable and adequate compensation forthwith to the petitioners with respect to their share over the acquired lands in Survey No.352/1B, 352/4, 353/1 & 353/2, Kodambakkam Village, Jafferkhanpet, Chennai District, totally measuring an extent of 4.87 Acres calculating the same with present value as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014 along with reasonable interest at the rate of 12% per annum from the date on which the possession was taken from the petitioner

For Petitioners : Mr.Sarvabhauman Associates

For Respondents : Mr.U.Baranidharan, AGP, for R1 & R2
: Mr.A.M.Ravindranath Jayapal, for R3 & R4

ORDER

The petitioners have filed this Writ petition seeking issuance of a Writ of Mandamus to direct the respondents to consider the petitioners' representation dated 11.08.2022 and to consequently, pay the compensation to the petitioners for their respective share over the subject lands.

2. The case of the petitioners is that originally the subject lands comprised in S.Nos.352/1B, 352/4, 353/1 & 353/2, situated at Kodambakam



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Village, Chennai, totally measuring an extent of 4.87 Acres belonged to one Velu Naiker and he was in possession and enjoyment of the said lands along with his six sons namely, Subramania Naiker, Devaraja Naiker, Govindaraja Naiker, Ganesa Naiker, Arumuga Naiker and Nataraja Naiker. While so, the said lands along with various other lands were sought to be acquired by the respondents for the development of various neighbourhood projects and subsequently, two different Awards were passed in Award Nos.10/1966 dated 23.09.1966 and 8/1968 dated 29.07.1968. However, it is pertinent to note that, since the said lands were not utilised for the purpose for which it was acquired and the same was kept unutilised without any development, the petitioners sought for recoveyance of the entire lands and pursuant to which, an extent of 1.70 Acres were re-conveyed to the father of the 1st petitioner, after receipt of a sum of Rs.2,17,556/-. Thereafter, the petitioners made various other representations dated 11.10.1993, 22.02.1999 and 10.02.2006, seeking reconveyance of the subject lands and inspite of continued correspondence, no final order has been passed on the said representations. Aggrieved by the inaction on the part of the respondents, the petitioners filed Writ petition in W.P.No.30954 of 2008 and the same was disposed of by this Court, vide order dated 06.08.2009 with a direction



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to the 1st respondent therein to pass appropriate orders based on the recommendation of the High Level Committee and the decision of the Board, aggrieved by which, the Housing Board filed a Writ Appeal before this Court in W.A.No.234 of 2011 in which direction was issued to consider the petitioners' representation in the light of the order of the Hon'ble Apex Court, however, as the same was not complied with by the officials, the petitioners filed Contempt Petition No.1350/2011 and the same was closed, as the petitioners' representation was already rejected. Thereafter, the petitioners filed a Writ petition in W.P.No.23825/2011, challenging the rejection order and the same was allowed, vide order dated 26.10.2015, challenging which, the Housing Board filed a Writ Appeal in W.A.No.825/2017 and the Hon'ble Division Bench of this Court, vide order dated 04.01.2018 set aside the above said order, against which petitioners filed SLP Diary No.13296/2020 and the same was also dismissed, vide order dated 17.07.2018. Thereafter, the 1st petitioner made a representation dated 11.08.2022 before the respondents, seeking for payment of compensation, however, till date, the same was not considered and the compensation was not disbursed in favour of the petitioners. Hence, this Writ petition.



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3. Though very many grounds have been raised by the learned counsel for the petitioners, the major grievance of the petitioners is that, though the request of the petitioners seeking for reconveyance ended in vain, and even when the petitioners are willing to receive the compensation, till date, the respondents are not taking any steps to disburse the compensation in favour of the petitioners. Hence, it would suffice, if this Court issues direction to the respondents to consider the petitioners' representation dated 11.08.2022 and pay the compensation to the petitioners for the lands acquired from them as per the Right to Fair Compensation Act, 2013.

4. Per contra, learned Additional Government Pleader submitted that already the compensation in respect of certain lands were paid and in respect of certain portion of lands, the compensation was paid to the concerned persons, based on the the no objection given by the petitioners and other legal heirs. However, he fairly submitted that, appropriate order will be passed on the 1st petitioner's representation dated 11.08.2022 for payment of compensation within the time stipulated by this Court.



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6. Though very many arguments have been advanced by the learned counsel on either side, however, considering the limited request made by the learned counsel for the petitioners, this Court, without expressing any opinion on the merits of the case, directs the respondents to consider the petitioners' representation dated 11.08.2022 for payment of compensation and pass appropriate orders on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order, after affording an opportunity of personal hearing to the petitioners and aggrieved persons, if any.

7. With the above directions, this Writ petition is accordingly disposed of. No costs. Consequently, connected Miscellaneous petitions are closed.



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Speaking Order : Yes/ No
Index : Yes/ No

To

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M.DHANDAPANI, J.

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