



W.P(MD)No.25935 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 16.11.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.25935 of 2022

and

W.M.P(MD)No.20063 of 2022

Karuppanan @ Karan

...Petitioner

Vs

1.The Commissioner,
Scheduled Caste/Scheduled Tribes
Welfare Department,
Chepauk,
Chennai-5.

2.The District Scheduled Caste/Scheduled Tribes
Welfare Department Officer,
Madurai District,
Madurai.

3.The District Collector,
Madurai District,
Madurai.

4.The Special Tahsildar,
Scheduled Caste/Scheduled Tribes
Welfare Department,
Madurai.

5.The Tahsildar,
Melur Taluk,
Madurai District.

..Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to order dated 26.07.2022 on the file of the first respondent in his proceedings in Na.Ka.No.15982/AaThi.7 and quashing the same and praying for issuance of directions to the return and reconvey the unutilized lands in S.No.66/12A of Sunnambur Village, Keeranur Village Group, Melur Taluk, Madurai District to the extent of 0.10 Hectare obtained from the petitioner under the proceedings of the first respondent in Na.Ka.813/1989 dated 10.09.1992.

For Petitioner :Mr.V.Kannan

For Respondents :Mr.D.Gandhiraj

Special Government Pleader

ORDER

This Writ Petition has been preferred to call for the records pertaining to order dated 26.07.2022 on the file of the first respondent in his proceedings in Na.Ka.No.15982/AaThi.7 and quashing the same and praying for issuance of directions to return and reconvey the unutilized lands in S.No.66/12A of Sunnambur Village, Keeranur Village Group, Melur Taluk, Madurai District to an extent of 0.10 Hectare obtained from the petitioner under the proceedings of the first respondent in Na.Ka.813/1989 dated 10.09.1992.



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2. The learned counsel appearing for the petitioner would submit that in the year 1977 the land situated in S.No.66/12A of Sunnambur Village, Keeranur Village Group, Melur Taluk, Madurai District to an extent of 0.10 Hectare was purchased by the petitioner's father Veeranan. On 15.11.1996 his father died and after demise of his father, the petitioner is enjoying the said land till date. In the meantime, he was informed that in the year 1992 the above said land was acquired by the first respondent for the purpose of issuing free house site patta to the SC/ST proples through his proceedings in Na.Ka.813/1989 dated 10.09.1992. Thereafter, the respondents did not take any action to construct the free house in the said land. The respondents department have also dropped further action. The respondents herein had also announced that the lands acquired for the Welfare of the SC/ST people if not utilized for that purpose will be re-conveyed to the original owners. The scheme thus proposed by the respondents department was not executed and the lands were kept unused and all the schemes are dropped. Hence, the respondents department did not require any land. Therefore, the land acquisition proceedings are deemed unnecessary and are infructuous. Hence, the petitioner has preferred an application to the first respondent on 02.05.2019 for the exclusion of his land from the Land Acquisition proceedings. The lands are not used by the respondents Department and recently the government also announced that the unused lands



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will be reconveyed to the original owners. By applying the above ratio, he is entitled for the exclusion of his land from the Land Acquisition proceedings.

3. Therefore, the petitioner has filed a writ petition in W.P(MD)No.12971 of 2019 praying to direct the first respondent to consider and pass orders on the application preferred by the petitioner, dated 02.05.2019 to return back the lands of the petitioner in S.No.66/12A of Sunnambur Village, Keeranur Village Group, Melur Taluk, Madurai District to an extent of 0.10 Hectare. This Court, by order dated 08.07.2019 directed the first respondent to consider the representation of the petitioner therein, dated 02.05.2019 and decide such plea raised by the petitioner, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

4. He would further submit that the petitioner had addressed a letter on 24.07.2019 enclosing a copy of the order dated 08.07.2019. Despite the clear directions from this Court to consider and pass orders on his application, dated 02.05.2019 within a period of eight weeks I.e., on or before 18.09.2019, the first respondent did not comply with the directions of this Court and failed to take any steps to comply with the orders of this Court. Therefore, the petitioner filed a contempt petition on Contempt Petition (MD)No.364 of 2020 before this



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Court. When the contempt petition is pending, the first respondent passed orders dated 26.07.2022 in his proceedings in Na.Ka.No.15982/AaThi.7 rejecting his application for reconveyance of land acquired in the year 1992. The said contempt petition was disposed of by order dated 20.09.2022 and liberty was given to the petitioner to challenge the said proceedings and order of the first respondent.

5. He would further submit that the petitioner is being denied the benefit that accrues to land owners on account of Section 101 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 which reads as follows:-

“101.Return of Unutilised land: When any land acquired under this Act remains unutilised for a period of five years from the date of taking over the possession, the same shall be returned to the original owner or owners of their heirs, as the case may be, or to the Land Bank of the appropriate Government by revision in the manner as any be prescribed by the appropriate Government.”

The impugned order of the first respondent, dated 26.07.2022 is under challenge in this writ petition.



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6. The first respondent in the impugned order it is stated that the said land was acquired in the year No.3/92-93 and converted into Adi Dravidar Natham in the village accounts. Award amount of Rs.48,311/- has been deposited before the I Additional Sub Court, Madurai under Section 30(2) of the Act. Totally, 93 persons were given free house plots, in which, 32 persons were given free house plots in the first phase on 18.01.1993 and 61 persons in the second phase on 14.12.1998. At present, 27 persons are living in the said Adi Dravidar Natham as the beneficiaries have got free house plots. Further, 5 persons are doing construction work. For distributing the drinking water to the public, the department of Rural Development has built an Over Head Drinking Water Reservoir. More over, the existing slum-dwellers have already acquired land and being given a house plot and a bath tub has been built and used for the convenience of the slum-dwellers living there. Actions are also being taken to select new beneficiaries and to issue house titles for the houses that are not being used in the provided houses. In this situation, the petitioner has already issued a house plot and a bath tub has been set up in the area and is being used by the Adi Dravidar people and hence, there is no chance to return the plot of land to the land owners. In this regard, notice under Section 3(1) and 5(1),5(2) was issued to the land owners to acquire the proposed field and



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the petitioner did not raise any objection when the land was acquired and now, it is not appropriate to demand the return of the land. Therefore, the petitioner is informed that there is no Government Rule or Act to return the land that was acquired by the Adi Dravidar Land Department.

7. Section 48-B of the Act does not confer any right to the parties to claim reconveyance. This provision merely empowers the Government to reconvey, provided, the conditions specified in the said Section are fulfilled. The Government has now come up with a stand that the House Site Patta is going to be issued to the persons belonging to Adi Dravidar. Once such a stand is taken by the Government, the request made by the petitioner pales into insignificance and Section 48-B of the Act becomes inoperational. It will be relevant to take note of the following judgments in this regard.

- ***V.Chandrasekaran and another vs. Administrative Officer and others*** reported in (2012) 12 SCC 133, wherein the relevant portions are extracted hereunder:

“Land once vested in the Government – whether can be divested:

25. It is a settled legal proposition, that once the land is vested in the State, free from all encumbrances, it cannot be divested and proceedings under the Act would not lapse, even if an award is not made within the statutorily stipulated



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period. (Vide: [Avadh Bihari Yadav v. State of Bihar & Ors.](#),; [U.P. Jal Nigam v. Kalra Properties \(P\) Ltd. \(Supra\)](#); [Allahabad Development Authority v. Nasiruzzaman & Ors.](#), , [M. Ramalinga Thevar v. State of Tamil Nadu & Ors.](#), ; and [Government of Andhra Pradesh v. Syed Akbar & Ors.](#),).

26. The said land, once acquired, cannot be restored to the tenure holders/persons-interested, even if it is not used for the purpose for which it was so acquired, or for any other purpose either. The proceedings cannot be withdrawn/abandoned under the provisions of [Section 48](#) of the Act, or under [Section 21](#) of the General Clauses Act, once the possession of the land has been taken and the land vests in the State, free from all encumbrances. (Vide: [State of Madhya Pradesh v. V.P. Sharma](#),; [Lt. Governor of Himachal Pradesh & Anr. v. Shri Avinash Sharma](#),; [Satendra Prasad Jain v. State of U.P. & Ors.](#),; [Rajasthan Housing Board & Ors. v. Shri Kishan & Ors.](#); and [Dedicated Freight Corridor Corporation of India v. Subodh Singh & Ors.](#)

27. The meaning of the word 'vesting', has been considered by this Court time and again. [In Fruit and Vegetable Merchants Union v. The Delhi Improvement Trust](#), AIR 1957 SC 344, this Court held that the meaning of word 'vesting' varies as per the context of the Statute, under which the property vests. So far as the vesting under [Sections 16](#) and [17](#) of the Act is concerned, the Court held as under:-



“19.....In the cases contemplated by [Sections 16](#) and [17](#), the property acquired becomes the property of Government without any condition or ; limitations either as to title or possession. The legislature has made it clear that vesting of the property is not for any limited purpose or limited duration ”

28. [In Gulam Mustafa & Ors. v. State of Maharashtra & Ors.](#), AIR 1977 SC 448, in a similar situation, this Court held as under:

“5....Once the original acquisition is valid and title has vested in the Municipality, how it uses the excess land is no concern of the original owner and cannot be the basis for invalidating the acquisition. There is no principle of law by which a valid compulsory acquisition stands voided because long later the requiring Authority diverts it to a public purpose other than the one stated in thedeclaration ”

29. Similarly, in [State of Kerala & Anr. v. M. Bhaskaran Pillai & Anr.](#), (1997) 5 SCC 432, this Court held as under:

“It is settled law that if the land is acquired for a public purpose, after the public purpose was achieved, the rest of the land could be used for any other 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



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and the amount fetched in the public auction can be better utilised for the public purpose envisaged in the Directive Principles of the Constitution. ”

30. [In Government of Andhra Pradesh & Anr. v. Syed Akbar \(Supra\)](#), this Court considered this very issue and held that, once the land has vested in the State, it can neither be divested, by virtue of [Section 48](#) of the Act, nor can it be reconveyed to the persons- interested/tenure holders, and that therefore, the question of restitution of possession to the tenure holder, does not arise. (See also: [Pratap v. State of Rajasthan](#),; [Chandragaudaj Ramgonda Patil v. State of Maharashtra](#),; [State of Kerala & Ors. v. M. Bhaskaran Pillai & Anr.](#),; [Printers \(Mysore\) . Ltd. v. M.A. Rasheed & Ors.](#); [Bangalore Development Authority v. R. Hanumaiah](#), ; and [Delhi Airtech Services \(P\) Ltd. & Anr. v. State of U.P. & Anr.](#)

31. *In view of the above, the law can be crystallized to mean, that once the land is acquired and it vests in the State, free from all encumbrances, it is not the concern of the land owner, whether the land is being used for the purpose for which it was acquired or for any other purpose. He becomes persona non-grata once the land vests in the State. He has a right to only receive compensation for the same, unless the acquisition proceeding is itself challenged.....”*

➤ ***Tamil Nadu Arasu Kooturuvuthurai Oanuyalargal Sangam rep. by its***



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General Secretary P.Soundarrajan & others vs.M.R.Srinivasan and

others reported in **2015 SCC Online Mad 8195** and the relevant paragraphs are extracted hereunder:

“114. It must also be remembered that under the [Land Acquisition Act, 1894](#), a land may be acquired for any public purpose including the purpose of providing housing to a section of the population. The land owner was conferred a very limited right under the Madras City Improvement Trust Act and under the Madras State Housing Board Act. It was a pre-emptive right to purchase the land at a rate as fixed by the Board and that too only after making an advertisement in a newspaper to see that the amount offered by the original owner is not less than the offers made by outsiders. This facility or limited right for the land owner was not available in the [Land Acquisition Act](#) itself but available only in cases where the acquisition was for the purposes of the Madras City Improvement Trust or the Madras State Housing Board.

115. However, in 1997 the State Legislature thought fit to extend a similar benefit, to all land owners, irrespective of whether the acquisition was for carrying out the purposes of the Madras City Improvement Trust Act or the Madras State Housing Board Act. Hence the Legislature amended the [Land Acquisition Act, 1894](#) itself under Tamil Nadu Amendment Act XVI of 1997, incorporating [Section 48-B](#).

116. Thus, the insertion of [Section 48B](#) into the [Land](#)



Acquisition Act, 1894, under Tamilnadu Amendment Act 16 of 1997, was nothing but an attempt to import into the Central Enactment, a provision similar to Section 72 of The Madras State Housing Board Act, 1961. Unless this historical reason is taken note of, it would not be possible to understand the legislative intent behind Section 48B.

117. Keeping in mind, the genesis of Section 48-B, let us take a plain and fresh look at Section 48-B. Though the "Statement of Objects and Reasons" to the Tamil Nadu Act XVI of 1997 merely states that the object of incorporating Section 48-B was to fill up the vacuum in the Land Acquisition Act, 1894, as it did not contain a provision for re-conveyance, the motive force behind the insertion of Section 48-B was to provide a level playing field between the acquisition for the purpose of Housing Board and acquisition for other purposes.

118. But nevertheless, Section 48-B was worded in such a manner that for the exercise of the power conferred therein, the Government should be satisfied that the acquired land was not required (i) either for the purpose for which it was acquired; (ii) or for any other public purpose. A plain reading of Section 48-B would disclose the following essential features.

(A) Section 48-B is not worded in such a manner conferring an indefeasible right upon the original owner to seek a re-conveyance.

(B) The section is also not worded in such a manner as



to impose an indefensible obligation upon the State, to re-convey the land necessarily.

(C)Section 48-B does not use the expression “Where the land is not put to use for the purpose for which it was acquired”. The section uses the expression “Where the landis not required” for the purpose for which it was acquired or for any other public purpose”.

(D)The fact that the land had not been put to use for the purpose for which it was acquired (even if true in a given case), would not lead to the automatic presumption that the land was not required either for the purpose for which it was acquired or for any other purpose.

(E) The true test for the application of Section 48-B, is only to see if the land is required for the purpose for which it was acquired or for any other public purpose. The plain language of Section 48-B does not call for the application of any test to see if the land had actually been put to use for the purpose for which it was acquired.

119. Apart from the fact that the foregoing principles could be culled out even from the plain language of Section 48-B, it could be seen that those principles are in sync with the law laid down by the Supreme Court. On the right of the land owner to seek re-conveyance, the Supreme Court held in Northern Indian Glass Industries v. Jaswant Singh [(2003) 1



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SCC 335], that “if the land was not used for the purpose for which it was acquired, it was open to the State Government to take action, but that did not confer any right on the respondents to ask for restitution of the land”.

120. In *Tamil Nadu Housing Board v. Keeravani Ammal* [2008-1-L.W. 15; (2007) 9 SCC 255], the Supreme Court cautioned in para 16 that “Section 48-B is an exception to the Rule and that such a provision had to be strictly construed and strict compliance with its terms insisted upon”. As a matter of fact, the Supreme Court expressed doubts about the validity of Section 48-B, but did not deal with the same as there was no challenge to it. A challenge to the validity of Section 48-B was made by a non-Governmental organization but the challenge was rejected recently by the first Bench of this Court in *Anti-Corruption Movement v. The Chief Secretary to Government of Tamil Nadu* [2015-2-L.W. 97; 2015 (2) CTC 225],

121. The decision in *Keeravani Ammal* was quoted with approval in *Tamil Nadu Housing Board v. L. Chandrasekaran* [(2010) 2 SCC 786], In para 28 of the report, the Supreme Court observed in this case that “the Government cannot be compelled to reconvey the land to the original owner if the same can be utilized for any public purpose other than the one for which it was acquired”.



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122. *On the question whether the land once vested in the Government could be divested, the Supreme Court held in para 26 of the report in V. Chandrasekaran v. Administrative Officer [2012-5-L.W. 724; (2012) 12 SCC 133], that a land once acquired cannot be restored to the owners, even if it is not used for the purpose for which it was acquired or for any other purpose either.*

123. *Therefore, it is clear that the original land owners do not acquire a right merely because the acquired land is not used for the purpose for which it was acquired or for any other purpose either. This is the general rule. The exception to this rule is in Section 48-B. But this exception also, as we have pointed out earlier, does not apply to all types of cases where the acquired land is not used for the purpose for which it was acquired or for any other purpose. The exception under Section 48-B applies only to cases where the acquired land is not at all required either for the purpose for which it was acquired or for any other purpose.”*

8. In view of the above discussion and settled proposition, this Court does not find any legal right for the petitioner to seek for reconveyance of the land, more particularly, when the State has already initiated steps to use the lands for public purpose for issuing 'House Site Patta' to persons belonging to Adi Dravidar and hence, this Court cannot issue a Mandamus and accordingly,



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the present Writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Internet: Yes/No

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To

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