



W.A.No.44 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 07.08.2023

Delivered on: 20.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.A.No.44 of 2013

and

M.P.No.1 of 2013

Thiruvalléeswarar Nagar Cooperative
Housing Society Limited
rep. by its Secretary M.Sreenivasan
No.114, Sundarar Street, Thiruvalléeswarar Nagar
Anna Nagar West, Thirumangalam
Chennai-600 040

...Appellant

Vs.

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

2.Tamil Nadu Housing Board
rep by its Chairman/Managing Director
No.331, Anna Salai
Nandanam, Chennai-600 035.



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3.Shree Thiruvalleeswarar Devasthanam
Thiruvallithayam
rep by its Executive Officer
Padi, Chennai-600 050.

4.The Secretary
Revenue Department (Land Acquisition)
Government of Tamil Nadu
Fort. St.George, Chennai-600 009.

5.The Commissioner
Hindu Religious and Charitable Endowment Department
Chennai-600 034.

...Respondents

Prayer:- Appeal filed under Clause 15 of Letter Patent praying to set aside
the order passed by this Court in W.P.No.18167 of 2011 dated 02.11.2012.

For Appellant : Mr.E.J.Ayyappan

For Respondents : Mrs.P.Raja Rajeswari, G.A for R1 & 4

Mr.D.R.Arun Kumar, SC for TNHB for R2

Mr.D.R.Sivakumar for R3

Mr.Yaswanth, AGP (HR&CE) for R5

JUDGMENT

(Judgment of the Court was made by P.B.BALAJI,J.)

The petitioner society aggrieved by the order of the learned Single
Judge in W.P.No.18167 of 2011 dated 02.11.2012 has preferred the



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present Writ Appeal.

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2. The appellant as Writ Petitioner sought for issuance of a Writ of Mandamus to direct the 1st respondent viz., The State of Tamilnadu represented by the Secretary to Government, Housing and Urban Development Department to sell and allot plots to the petitioner's members. The Writ Court, in and by a common order, dismissed the Writ Petition along with batch of other Writ Petitions which were filed by the individual lessees/sub-lessees who were members of the Devasthanam, contending that the members of the appellants/writ petitioners were in occupation of respective small extents of land, having constructed pucca buildings as tenants of Devasthanam and that they were willing to purchase the respective properties in their occupation for a reasonable consideration.

3. Before the Writ Court, Tamil Nadu Housing Board filed a counter stating that though an award was originally passed to acquire the subject lands, subsequently, the Government has withdrawn the same from acquisition and therefore, there is no question of selling plots to the



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appellant or its members. The Executive Officer of the Devasthanam also filed a separate counter before the Writ Court stating that there are about 200 tenants paying rent to the temple and that the Government has no right over the property, especially after the notification withdrawing the acquisition proceedings way back in the year 1988. It is also specifically stated that even the temple does not in any way intend to sell the plots to the appellant or its members.

4. Heard Mr.E.J.Ayyappan, learned counsel for the appellant, Mrs.P.Raja Rajeswari, learned Government Advocate for R1 and 4, Mr.D.R.Arun Kumar, learned Standing Counsel for TNHB for R2, Mr.D.R.Sivakumar, learned counsel for R3 and Mr.Yaswanth, learned AGP (HR&CE) for R5. We have also perused the records, besides the order of the Learned Single Judge.

5. The Writ Court after carefully analysing the respective contentions of the parties before it held that the appellant's members were only tenants and they cannot compel the Devasthanam to sell the plots to them, even assuming they have constructed pucca houses and had been living there for



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several years. The Writ Court found that possession was not taken over by the Government and the temple continued to be in possession and that the notification issued U/s. 48(1) of the Land Acquisition Act withdrawing the subject land from acquisition only made it further clear that the Government had not taken possession of the property. Ultimately, the Writ Court finding that there is absolutely no substance or basis whatsoever in the case advanced by the appellant, proceeded to dismiss the Writ Petition.

6. Aggrieved by the said order of the Writ Court, the petitioner as appellant, has preferred the present Writ Appeal on the grounds that once the acquisition proceedings were initiated and award came to be passed, the Devasthanam ceased to be the owner and therefore the Writ Court ought to have allowed the prayer seeking a direction to the 1st respondent State to sell the respective plots to the members of the appellants society and that the withdrawal of the acquisition by notification of the Government in 1988 was non-est and null and void.

7. In view of the fact that acquisition proceedings have been dropped and the subject lands vest with the Devasthanam, the prayer seeking a



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direction to the 1st respondent State to sell the plots to the members of the appellant society is wholly unsustainable. The appellant's members are admittedly lessees or sub-lessees under the temple viz., Shree Thiruvalleeswarar Devasthanam and in view of the amendment to the Chennai City Tenants Protection Act, in 1996, the question of right to purchase the land under the occupation of the tenant also has been taken away and the question of the appellant society compelling either the State or the temple to sell the lands to them, cannot and does not arise. We do not find any infirmity in the order of the learned Single Judge, having discussed all relevant facts and contentions put forth by all the parties concerned and passed a considered and reasoned order thereafter.

8. In fine Writ Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(D.K.K.J) & (P.B.B.J)
20.09.2023

Internet : Yes
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Neutral Citation: Yes/No
mjs



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- To
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Housing and Urban Development Department
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 - 2.The Chairman/Managing Director
Tamil Nadu Housing Board
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 - 3.The Executive Officer
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D.KRISHNAKUMAR, J.,
and
P.B.BALAJI, J
(mjs)

Pre-delivery judgment in
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