



W.A.No.839 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.839 of 2013

and

M.P.No.1 of 2013

Thiruvalléeswarar Nagar Cooperative
Housing Society Limited
rep. by its President A.Arockiasamy
No.114, Sundarar Street
Thiruvalléeswarar Nagar
Anna Nagar West
Thirumangalam
Chennai-600 040

...Appellant

Vs.

1.The Corporation of Chennai
rep by its Commissioner
Chennai-600 003

2.The Zonal Office, 7th Zone
Corporation of Chennai
Rep by its Zonal Officer
Ambattur
Chennai-600 053



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3.Tamil Nadu Housing Board
rep by its Chairman
No.331, Anna Salai
Nandanam
Chennai-600 035

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

5.The Government of Tamil Nadu
rep by its Secretary Department of
Religious Endowment
Fort. St.George
Chennai-600 034

6.The Commissioner of Hindu Religious
and Charitable Endowments, Nungambakkam
High Road, Chennai-600 034
(respondents 5 and 6 impleaded
as party respondents vide order dated
16.04.2014 made in
M.P.No.1 of 2014 in
W.A.No.839/2013)

...Respondents

Prayer:- Appeal filed under Clause 15 of Letter Patent praying to set aside
the order passed by this Court in W.P.No.27872 of 2012 dated 14.03.2013.

For Appellant : Mr.E.J.Ayyappan

For Respondents : Mrs.Aswini Devi,SC (Corporation)
for R1 and 2

Mr.D.R.Arun Kumar, SC for TNHB for R3



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Mr.S.D.Ramalingam for R4

Mr.Yaswanth, AGP (HR&CE) for R5 and 6

JUDGMENT

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

The unsuccessful Writ Petitioner is the appellant before us.

2. The Writ Petition was filed by the appellant seeking issuance of a Writ of Mandamus to direct the Corporation of Chennai to continue to provide basic amenities to the petitioner's housing Society. The 1st respondent Corporation of Chennai has filed a counter before the Writ Court stating that land was not handed over to them by the Tamil Nadu Housing Board and therefore the basic amenities could not be provided.

3. The Writ Court in and by order dated 14.03.2013, closed the Writ Petition on the ground that no relief could be granted to the petitioner's society, according the stand of the Corporation of Chennai as 1st respondent in the said Writ Petition.

4. Aggrieved by the said order of the Writ Court, the petitioner



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society has filed the present Writ Appeal on the ground that their members were all original lessees of temple Shree Thiruvalleeswarar Devasthanam and they have been in possession and enjoyment of their respective houses, paying property tax and metro water charges and taxes.

5. It is the further case of the appellant that subject lands were originally falling under the Ambattur Municipality and subsequently merged with 1st respondent, Corporation of Chennai. It is the further case of the appellant that the lands measuring approximately 21.08 acres in S.No.218/2 belong to the aforesaid Shree Thiruvalleeswarar Devasthanam was acquired by the Government for Tamil Nadu Housing Board. The hereditary trustees of the Devasthanam challenged the said acquisition proceedings in W.P.No.11842/1995. However, the said Writ Petition was dismissed by order of this Court dated 13.12.1985 and according to the appellant, even the Devasthanam had admitted before this Court in the said Writ Petition that their tenants are in possession of the subject lands, having constructed buildings. Though Writ Appeal No.305 of 1986 came to be filed by the Devasthanam, the same was also dismissed on 13.03.1986. However, the Tamil Nadu Housing Board did not execute the



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scheme for which the lands were acquired and therefore the appellant society filed W.P.No.18167 of 2011, seeking a direction to the State Government to sell the plots under their occupation to them at a reasonable price. However, subsequently, the Writ Petition was dismissed on 02.11.2012 and as against the said dismissal, W.A.No.44 of 2013 has been filed and the same is pending before this Court.

6. The Writ Appeal No.44 of 2013 is also being decided by us by way of a separate order.

7. Heard Mr.E.J.Ayyappan, learned counsel for the appellant, Mrs.Aswini Devi, learned Standing Counsel (Corporation) for R1 and 2, Mr.D.R.Arun Kumar, learned Standing Counsel for TNHB for R3, Mr.E.D.Ramalingam, learned counsel for R4 and Mr.Yaswanth, learned AGP (HR&CE) for R5 and 6. We have also perused the records, besides the order of the Learned Single Judge.

8. At the last hearing on 19.07.2023, we directed the State Government to file a counter. Today, though no counter has been filed, the



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Special Government Pleader has stated that acquisition proceedings have been dropped. He also produced the original files in this regard. On perusing the same, we find that in G.O.Ms.No.40-C dated 12.10.1988, exercising power under Sub-Sec(1) of Sec.48 of the Land Acquisition Act, 1894, the Government has withdrawn from acquisition, the subject lands. The Special Government Pleader would therefore submit that the lands are now belonging to the Devasthanam and the State has no say in the matter.

9. The appellant society admittedly comprises of members who are only lessees/sub-lessees of the Devasthanam/3rd respondent. Even before the Writ Court, the respondent Corporation had made it clear that the Housing Board had not yet handed over the lands to them. It is however seen that even as early as on 1988, the acquisition proceedings have been dropped and unfortunately the same was not brought to the notice of the Writ Court at the time of disposal of the Writ Petition.

10. In any event, in view of the fact that the acquisition proceedings have been dropped, the prayer in the Writ Petition to direct the Corporation of Chennai to provide basic amenities to the petitioner society cannot be



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sustained. The appellants/petitioners are admittedly lessees/sub-lessees under the Devasthanam and they had initially approached the Court as if they are entitled to purchase the respective plots under their occupation from the State, which foundation itself has stood reached because of the subject lands being withdrawn from acquisition.

11. In view of the fact that the Devasthanam is the owner of the subject lands, no such direction can be issued to the Corporation of Chennai on the strength of the case set up by the appellant society in the Writ Petition. In fine, the 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
Index: Yes/No
Neutral Citation: Yes/No
mjs



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To
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Corporation of Chennai
Chennai-600 003.

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D.KRISHNAKUMAR, J.,
and
P.B.BALAJI, J
(mjs)

Pre-delivery judgment in
W.A.No.839 of 2013

20.09.2023