



W.P.No.29893 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.29893 of 2015

and

M.P.No.1 of 2015

and

W.M.P.No.4045 of 2019

1. Tmt.Jagadambal
W/o.Jayakanthan
2. D.Krishnamurthy
S/o.Dakshinamurthy
3. Tmt.Kumari
W/o.Mohan
4. D.Sivakumar
S/o.Dakshinamurthy
5. D.Elangovan
S/o.Dakshinamurthy

... Petitioners

versus

1. The Secretary to Government
Housing and Urban Development Department
Secretariat
Fort St.George, Chennai-600 009.



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2. The Secretary to Government
Food and Agricultural Department
Secretariat
Fort St.George
Chennai-600 009.
3. The District Collector
Chennai District
Office of the District Collector
Chennai-600 001.
4. The Commissioner of Corporation
Office of the Commissioner
Corporation of Chennai
Rippon Buildings
Chennai-600 003.
5. The Managing Director
Chennai Metropolitan Water Supply and Sewerage Board
Pumping Station Road
Chindhadripet
Chennai-600 002.
6. The Director General
Highways Department
PWD Complex
Kamarajar Salai
Chepauk,
Chennai-600 005.
7. The Assistant Commissioner of Police
Central Branch (CB-CID)
Egmore
Chennai-600 008.



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8. S.Rajeswari
W/o.R.Shankar

9. S.Uma
W/o.Shankaraman

... Respondents

* R8 & R9 are impleaded as per order dated 24.03.2017
in W.M.P.No.1063 of 2016 in W.P.No.29893 of 2015

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of declaration declaring that the land acquisition proceedings initiated vide G.O.Ms.No.49 dated 19.12.1962 with respect to the land comprised in Old Survey No.37/2 T.S.Nos.3 & 4, Block No.64, measuring an extent of 89 cents situated at Koyambedu Village, Saidapet Taluk, Chengalpet District belonging to the petitioners, stands lapsed as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in view of the admitted position that the physical possession of the said land has neither been taken nor vested with the Government of Tamil Nadu and consequently, direct the respondents to effect necessary changes in the revenue records by incorporating the names of the petitioners with respect to the said land.



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For Petitioners : Mr.R.Gopinath
M/s.MCGAN Law firm

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader
for R1, R2, R3 and R6
Mr.A.C.Manibharathi
Standing Counsel for R4
Ms.S.Deepika
Standing Counsel for R5
Mr.S.Sugendran
Additional Public Prosecutor, for R7

ORDER

This writ petition has been filed seeking for a Writ of declaration declaring the land acquisition proceedings initiated vide, G.O.Ms.No.49 dated 19.12.1962 in respect of the land comprised in Old Survey No.37/2 T.S.Nos.3 & 4, Block No.64, measuring an extent of 89 cents situated at Koyambedu Village, Saidapet Taluk, Chengalpet District belonging to the petitioners, stand lapsed as per 'the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013' [hereinafter 'said Act'] in view of the admitted position that the physical possession of the subject properties has neither been taken nor vested with the Government of Tamil Nadu and consequently, direct the respondents to effect necessary changes in the revenue records by

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incorporating the names of the petitioners with respect to the said land.

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2. According to the petitioners, the petitioners' mother Mangalammal purchased the subject properties vide a registered sale deed dated 24.10.1960 and she was in possession and enjoyment of the subject properties. While so, the Government of Tamil Nadu vide notification dated 19.12.1962 have acquired the subject properties. The petitioners' mother did not avail any compensation with regard to the same and she was also not aware about the legal recourses. The petitioners' mother passed away on 08.08.1991. The Government of Tamil Nadu did not utilize the subject properties, for the purpose, it was acquired, which lead some of the third parties to encroach the subject properties and to change the revenue records in their names. Hence, the second petitioner gave a representation dated 03.07.2002 to the third respondent to cancel the patta granted in the name of encroachers and to issue patta in his favour. After a detailed enquiry, by way of an order dated 27.03.2008, the third respondent cancelled the proceedings through which the patta was granted in respect of the subject properties in the name of encroachers. As against the aforementioned order



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of third respondent dated 27.03.2008, the encroachers filed a writ petition in W.P.No.12151 of 2008 before this Court and the same came to be disposed of on 22.07.2014 by granting liberty to the encroachers (petitioners therein) to work out their remedies before the Civil Forum. In the meanwhile, the second petitioner herein filed an appeal before the Tamil Nadu Information Commission on 13.10.2011 regarding the status of the subject properties acquired by the Government of Tamil Nadu. In the said appeal, the Hon'ble Information Commission, by its communication dated 12.04.2012 directed the Revenue Department, Corporation of Chennai and the Highways Department to verify all the documents pertaining to the subject properties, to inspect the subject properties and to furnish the information with regard to the same to the second petitioner herein within 15 days. Pursuant to the above direction, enquiry was conducted on 31.05.2012 and an order was passed with an observation that action will be taken to vacate the order secured by the encroachers in the cases filed by them. While that be so, the petitioners gave a representation dated 07.04.2013 to the respondents 2, 4 and 5 to reconvey the subject properties. Since there was no response, the second petitioner filed a writ petition in W.P.No.12138 of 2013 seeking for a



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direction against the respondents 2, 4 and 5 to consider his representation regarding reconveyance of the subject properties and this Court, vide order dated 26.04.2013 directed the petitioner to give a fresh representation to the first respondent and directed the respondents therein to dispose of the same. In compliance of the same, the petitioners have sent several representations seeking for reconveyance of the subject property. Since no response from the respondents regarding the reconveyance of the subject property, the present writ petition has been filed.

3. The learned counsel for petitioner submits that the subject properties were acquired by the Government in the year 1962 vide G.O.Ms.No.49 dated 19.12.1962 but they have not utilized the same and kept as vacant land. Therefore, some of the third parties have encroached the subject properties and planted petrol bunk. After filing of this writ petition only, the petrol bunk was removed from the subject properties. The main contention of the learned counsel for petitioners is that, since the subject properties were not utilized for the purpose for which it was acquired, the acquisition proceedings issued vide G.O.Ms.No.49 dated



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19.12.1962 under said Act has been lapsed and hence, the acquisition proceedings have to be quashed and physical possession of the land has to be handed over to the writ petitioners.

4. A counter affidavit dated 25.10.2023 has been filed by the sixth respondent - Highways Department.

5. On a perusal of the counter affidavit, it is seen that the the subject properties have been vested with the Highways Department and inner ring road has already been formed up. It is also seen that the possession was taken by the Government on payment of compensation to the original owners of the subject properties. The Highways Department have taken action to evict the encroached petrol bunk by issuing notice to the encroachers. Necessary precautionary measures have been taken to evict the encroachments.

6. The learned Special Government Pleader submits that since the acquired the subject properties are vested with Highways Department and



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reserved for future utilization, the contention of the learned counsel for the petitioner that the subject properties are not utilized for the purpose for which it was acquired, is incorrect and the present writ petition is liable to be dismissed.

7. Heard both sides.

8. Admittedly, the subject properties were acquired in the year 1962 under due process of law and some of the lands were used for laying ring road and also it is in the possession of 6th respondent. To be noted the petrol bunk is now removed from the subject properties and kept as vacant. The main grievance of the petitioner is that the subject properties which were acquired from his predecessor was not used for the purpose, for which, it was acquired and therefore, the subject properties have to be handed over to the petitioners. Once the lands were acquired by the Government under due process of law, if the Government is not in a position to carry out the same scheme, they can utilize the said lands for some other schemes also. If the Government intended to sell the lands to any private parties, the same



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can be questioned. However, in this case, the Government, admittedly kept the lands as vacant. To be noted, that as on date no third party is in the possession of the subject properties and the same is in the possession of the Government only. The acquisition proceedings were issued in the year 1962 itself but the writ petitioners challenged the same only in the year 2015. Hence, the writ petition is liable to be dismissed on the ground of delay and laches. Under such circumstances, the petitioner is not entitled to claim the relief as sought for in the writ petition.

9. Accordingly, this Writ Petition is dismissed.

10. W.M.P.No.4045 of 2019 has been filed by the petitioners to implead the proposed respondents i.e., Regional Manager and Territory Manager, Bharat Petroleum Corporation Limited as respondents 10 and 11 in the present writ petition. Since the petitioners have stated that the petrol bunk has been removed from the subject properties and as on date, the subject properties are kept vacant, it is not necessary to implead the proposed respondents in the present writ petition. Accordingly, Writ



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Miscellaneous Petition is also dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

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Speaking/Non-speaking order

Index:Yes/No

Neutral citation : Yes/No

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