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W.P.Nos.14216, 14219, 14224, 14228 & 14231 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.14216, 14219, 14222, 14224, 14228 & 14231 of 2021

and

W.M.P.Nos.15116, 15118, 15122, 15124, 15127, 15129, 15131, 15132, 15135, 15137, 15145 & 15146

W.P.No.14216 of 2021:

K.Subramanian

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by its Secretary,
Housing and Urban Development Department,
Fort St. George, Chennai – 09.

2.The Managing Director,
Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam, Chennai – 600 035.

3.The Sub Registrar,
Office of the Sub Registrar,
Sooramangalam, Salem District.

4.The Special Tahsildar,
Land Acquisition, Neighbourhood Scheme,
Salem- 08.

... Respondents



W.P.Nos.14216, 14219, 14224, 14228 & 14231 of 2021

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 4th Respondent in Lr.No.Roc.No.541/2020, dated 19.09.2020 quash the same and consequently direct the Respondents to accept the sale deed and any other documents submitted by the petitioner for registration and accordingly declare that the property situate in survey Nos.13/1, 13/1X2, 13/1X3, 13/1X6, 13/4, 13/23 in New Ward - T. Block - 3, T.S. No.13, 28, 29 and 51 at Kandampatti Village, Salem Distirct is not a subject matter of acquisition.

For Petitioners	: Mr.M.Raja For M/s.Swaminathan Law Associates (in 6WPs)
For R1, R3 & R4	: Mr.G.Krishna Raja Additional Government Pleader (in 6WPs)
For R2	: Mr.C.Kalaichelvan (in 6WPs)

COMMON ORDER

The order passed by the Special Tahsildar, Land Acquisition, Neighbourhood Scheme, Salem in proceedings dated 19.09.2020 is under challenge in all the writ petitions.



W.P.Nos.14216, 14219, 14224, 14228 & 14231 of 2021

2. The Special Tahsildar, Land Acquisition has informed the Sub Registrar, Sooramangalam, stating that the subject properties purchased by the petitioners had already been acquired for developing Neighbourhood Scheme by the Tamil Nadu Housing Board, Salem.

3. The learned counsel for the petitioner mainly contended that the subject properties were purchased by the petitioners in the year 2014. The Tahsildar has given a letter stating that the subject properties are excluded from the land acquisition proceedings. Relying on the said letter issued by the Tahsildar, the petitioners purchased in the year 2014 and they are in possession and enjoyment of the subject property.

4. Mere possession of the subject property would not confer any title on the writ petitioners. The Special Tahsildar, Land Acquisition, Neighbourhood Scheme, Salem filed a counter affidavit categorically stating that the Executive Engineer of Tamil nadu Housing Board, Salem has proposed to acquire lands for construction of houses under Neighbourhood scheme for public purpose in Kandampatty village and Bodinaikkenpatty villages, Salem District. Section 4(1) Notification of Land Acquisition Act,



W.P.Nos.14216, 14219, 14224, 14228 & 14231 of 2021

1894 was approved in G.O.Ms.No.888, Housing and Urban Development dated 11.07.1980 and it was published at pages 4 to 11 in the Government Gazette No.29(A) dated 30.07.1980 for an extent of 47.29 acres for the construction of houses under Neighbourhood scheme for public purpose. It is also submitted that Section 5(A) enquiry was conducted on 14.12.1981 and 30.12.1981. Thereafter, Draft Declaration under Sections 6 and 7 of Land Acquisition Act, 1894 was approved in G.O.Ms.No.1126, Housing and Urban Development dated 26.07.1983 and it was published in Tamil Nadu Government Gazette No.275 dated 29.07.1983 at pages 1 to 15. Therefore, Award enquiry was conducted by the Land Acquisition officer and Special Tahsildar on 09.09.1986 after proper publication of service of notices under Sections 9(1), 9(3) and 10. After due completion of Land acquisition formalities over, the award No.14/86-87 was passed by the Land Acquisition officer and Special Tahsildar on 23.09.1986 to an extent of 37.21 acres of above villages including lands mentioned by the petitioner in this case of Kandampatty Village, Salem Taluk.

5. As per the award No.14/86-87 dated 23.09.1986, the lands in S.No. 13/1X and some lands of Kandampatty and Bodinaikkenpatty villages to an



W.P.Nos.14216, 14219, 14224, 14228 & 14231 of 2021

extent of 37.21 acres of lands were acquired for construction of houses under Neighbourhood scheme for public purpose. As per award No. 14/86-87 dated 23.09.1986, S.No.13/1 is sub divided into 13/1A to 13/1X. The lands in S.No.13/1A to 13/1X measuring an extent of 2.61 acres and some lands of total extent 37.21 acres of lands were acquired for the construction of houses under neighbourhood scheme for public purpose. As per petitioner's settlement deed bearing No.2494/2019 dated 22.03.2019 the petitioner's land in S.No.13/1X3 and 13/1X6 of Kandampatty village is the sub division of S.No.13/1X, which was acquired as above. As per award, this land stands in the names of (1) Marimuthammal (2) Perumal (3) Mari (4) Panjalaiaimmal. The original land owners Panjalaiaimmal and Mari appeared and other joint pattadars did not appear for enquiry and have not produced documents. Even other land owners for their respective lands mentioned in Award No.14/86-87 dated 23.09.1986 didn't attend the enquiry. So, the entire compensation amount Rs.24,30,190.55 for the acquired lands in S.No.13/1X and other lands acquired as per Award No.14/86-87 dated 23.09.1986 was deposited in the Sub-Court, Salem on 01.08.1988 in L.A.O.P.No.1/88 to 132/88.



W.P.Nos.14216, 14219, 14224, 14228 & 14231 of 2021

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6. Thus, it is unambiguous that the subject property had already been acquired and handed over to the Tamil Nadu Housing Board for developing Neighbourhood Scheme. The entire compensation amount of Rs.24,30,190.55/- had been deposited in the Sub Court, Salem on 01.08.1988 in L.A.O.P.No.1 of 1988 to 132 of 1988. Thus, the petitioners have purchased the acquired land inadvertently or the petitioners would have been misled by his vendor.

7. If at all the petitioners have been cheated by the vendor or misled on account of the certificate issued by the Tahsildar contrary to the land acquisition proceedings, the petitioners are at liberty to prosecute the Tahsildar who has issued an erroneous certificate or patta or otherwise and also the vendor for selling the subject properties by suppressing the material facts regarding the acquisition proceedings of the entire land.

8. However, the relief as such sought for cannot be granted, since the subject properties were already acquired and the entire compensation amount has been deposited before the Sub Court, Salem. The petitioner is at liberty to prosecute the vendor for recovering the sale considerations made to the



W.P.Nos.14216, 14219, 14224, 14228 & 14231 of 2021

petitioner's vendor in the manner known to law. Therefore, this Court do not find any infirmity in respect of the order impugned passed by the respondent and the same shall be confirmed.

9. Accordingly, these Writ Petitions stand dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

29.08.2023

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Index : Yes
Speaking order
Neutral Citation : Yes



W.P.Nos.14216, 14219, 14224, 14228 & 14231 of 2021

To

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Housing and Urban Development Department,
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2. The Managing Director,
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WEB COPY



W.P.Nos.14216, 14219, 14224, 14228 & 14231 of 2021

S.M.SUBRAMANIAM, J.

Jeni

**W.P.Nos.14216, 14219, 14222,
14224, 14228 & 14231 of 2021**

29.08.2023