



W.P.No.18261 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2023

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

and

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.18261 of 2018

K.Ramalingam

...petitioner

Vs.

1. Executive Engineer and ADO,
Villupuram Housing Unit,
Tamilnadu Housing Board,
Villupuram 605 602.
2. K.Sarala
3. The Special Tahsildar (Land Acquisition),
Housing Development Scheme, Cuddalore.

...respondents

[R3 impleaded as per the order of this Court
dated 26.07.2019 in WMP.No.12390 of 2019 in
WP.No.18261 of 2018.]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari to call for the records of the first respondent in his proceeding in the impugned order L.R.No.R4/2543/2012, dated 09.07.2018 and quash the same.



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For petitioner : Ms.J.Lavanya
for M/s.Venkateswaran

For respondents
for R1 : Mr.D.Veerasekaran
for R2 : Mr.S.Sivakumar
for R3 : Mr.A.Selvendran, Spl.G.P.

ORDER

(The Order of the Court was made by S.S.SUNDAR, J)

This petition has been filed to quash the impugned order in L.R.No.R4/2543/2012, dated 09.07.2018.

2. The petitioner states that he purchased a property bearing Survey No.60/5 from one Kumar under sale deed dated 25.07.1991. It is the specific case of the petitioner that he is in possession of the property. It is admitted that the first respondent had acquired the property for the purpose of forming Housing Unit.

3. The grievance of the petitioner is that he was neither given notice nor dispossessed pursuant to the acquisition proceedings. Though it is stated that the second respondent got allotment from the first respondent, it is the case of the petitioner that he was never dispossessed nor paid compensation for the land acquired. It is admitted in the counter affidavit that notification



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under Section 4(1) of the Act was approved only on 19.09.1991. It is the statutory obligation of revenue officials to include the name of purchaser following registered sale deed.

4. The learned counsel appearing for the first respondent submitted that the land was acquired long back and the first respondent allotted the land to the second respondent.

5. By the impugned order, the first respondent has directed the petitioner to vacate the premises within 7 days on receipt of the impugned order dated 09.07.2018. At the time when the Writ Petition was filed, the petitioner had produced photographs to show that the petitioner had put up a house and the construction was also after getting a planning permission dated 22.03.2022.

6. Though factual contentions are disputed by the respondents, the fact that the petitioner is in possession of the property as purchaser from the original owner is not an issue. This Court is unable accept the contention that possession was taken from the petitioner pursuant to the acquisition proceedings as no reliable record is produced before this Court to confirm



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that possession was taken. Petitioner who purchased the property before acquisition is in possession and his possession is lawful. Further, the petitioner cannot be deprived of his right to be in possession as purchaser of the property, who is entitled to be in possession, till his possession is taken by the respondents by following due process of law. It is not the case of first respondent that compensation was paid to the petitioner. Therefore as against the petitioner, the acquisition can be held invalid and lapsed in view of Section 24(2) of the Act 30 of 2013.

7. Further, this Court finds that the impugned order, is in violation of principles of natural justice, in as much as the petitioner was neither given show cause notice nor an opportunity before passing the impugned order. Therefore the Writ Petition is allowed only on the ground of violation of principles of natural justice. It is open to the first respondent to take appropriate action after issuing show cause notice and following the procedure in the manner known to law. It is also open to the petitioner to challenge acquisition by virtue of Section 24(2) of Act 30 of 2013. Accordingly, this Writ Petition is allowed. No costs.

(S.S.S.R.J.) (K.R.S.J.)

06.07.2023

Index : Yes / No



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Speaking order: Yes/No

pvs

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