



W.A.Nos.1520 to 1523 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.B. BALAJI

**W.A.Nos.1520 to 1523 of 2017 &
CMP Nos.19963 to 19966 of 2017**

W.A.No.1520 of 2017

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

2.The Executive Engineer/
Administrative Officer,
Tamil Nadu Housing Board,
Salem Housing Unit,
Salem-636008

... Appellants

versus

1. N.Periyannan

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

... Respondents



W.A.Nos.1520 to 1523 of 2016

PRAYER: Writ Appeal filed under Clause 15 of the Letter Patent against the order dated 05.01.2015 in W.P. No.8743 of 2013.

W.A.No.1521 of 2017

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

2.The Executive Engineer/
Administrative Officer,
Tamil Nadu Housing Board,
Salem Housing Unit,
Salem-636008

... Appellants

versus

1. R.Chinnaponnu

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

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letter Patent against the order dated 05.01.2015 in W.P. No.8744 of 2013.

W.A.No.1522 of 2017

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

2.The Executive Engineer/
Administrative Officer,
Tamil Nadu Housing Board,
Salem Housing Unit,



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Salem-636008

versus

W.A.Nos.1520 to 1523 of 2016

... Appellants

1. A.Subramani

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

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letter Patent against the order dated 05.01.2015 in W.P. No.8745 of 2013.

W.A.No.1523 of 2017

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

2.The Executive Engineer/
Administrative Officer,
Tamil Nadu Housing Board,
Salem Housing Unit,
Salem-636008

... Appellants

versus

1. M.Pavalakodi

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

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letter Patent against the order dated 05.01.2015 in W.P. No.8746 of 2013.

For Appellants : Mr.A.M.Ravindranath Jeyapaul,



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Standing Counsel (TNHB)

For Respondents

: Mr.C.Prakasam
for first respondent
Mr.K.Tippusultan
Government Advocate
for second respondent
(in W.A.No.1520 of 2017)

No appearance for R1
Mr.K.Tippu Sultan
Government Advocate
for R2
(in W.A.Nos.1521 to 1533 of 2017)

JUDGMENT

(Judgment of the Court was delivered by *D.KRISHNAKUMAR, J.*)

Since the issue involved in all the writ appeals is one and the same, a common order is passed in all the writ appeals.

The brief facts leading to the filing of the present writ appeals is as follows:

2.1.The first respondents herein are the original writ petitioners. The original writ petitioners have filed WP Nos.8743 to 8746 of 2013 for a Writ of Certiorarified Mandamus calling for the entire records relating to Letter No.LA.1/7337/79 dated 08.03.2013 of the Tamil Nadu Housing Board and quash the same and consequently direct the respondents to reconvey the land comprised in S.No.82/7 & 8, 68/4 &



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5, 82/6 and 68/3&6 in Ayyamperumalpatti Village, Salem Taluk & District to the respective petitioners.

2.2. It is the case of the original writ petitioners that they are the owners of the respective lands at Ayyamperumalpatti Village, Salem Taluk. The Government of Tamil Nadu sought to acquire the said lands for the purpose of implementing housing scheme through the Tamil Nadu Housing Board. The Government issued notification under Section 4(1) of the Tamil Nadu Land Acquisition Act, (hereinafter referred to as the Old Act, 1894) in G.O.Ms.No.455, Housing and Urban Development Department, dated 23.06.1981 and later passed declaration under Section 6 of the of the Old Act, 1984 in G.O.Ms.No.538, Housing and Urban Development Department dated 07.07.1984. Since the acquired lands have not been used by the Government for nearly two decades, the petitioners gave a written representation dated 11.01.2013 and 21.01.2013 to the first respondent Government, for re-conveyance of the land under Section 48(b) of the Old Act, 1894. After receipt of the said representations, the Tamil Nadu Housing Board, who does not have any power or jurisdiction to reject the representations as per Section 48 (b) of the



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Old Act, 1894, rejected the representations of the petitioners. Thereafter, the Tamil Nadu Housing Board passed an order dated 08.03.2013 rejecting the request for re-conveyance of the said land. Aggrieved by the said order passed by the Tamil Nadu Housing Board, the petitioners had filed the writ petitions, seeking re-conveyance of the land under Section 48(b) of the Old Act, 1984.

2.3.The learned Single Judge, allowed the writ petitions by order dated 05.01.2015, on the ground that the official respondents have not strictly adhered to the land acquisition proceedings under the Old Act, 1894 and there is a lapse on the side of respondents; the award amount had been deposited only in the name of erstwhile owner but not in the name of the present owner namely the petitioners and as such the provision under the Act were not followed and there is a huge delay in implementing the proposed scheme and land acquired is still vacant and as such re-conveyance of the land will not prejudice the official respondents, particularly when the compensation amount is lying in the court custody. As against the said order, the present writ appeals are filed.



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3. The learned Standing Counsel for the appellant Housing Board submitted that possession of the acquired land has been taken, Award amount has been deposited, the acquired land had been handed over to the Housing Board and mutation effected in the revenue records in the name of Housing Board and preparation of the layout is under process by the Board in respect of the property in dispute. The said land is essentially required for formation of comprehensive housing scheme. However, the learned Single Judge did not accept this stand of the learned Standing Counsel for the Housing Board and allowed the WP Nos.8743 to 8746 of 2013, by order dated 05.01.2015, directing the re-conveyance of the land to the respective petitioner. Therefore, the learned Standing Counsel for the appellant Housing Board seeks for setting aside the order of the Writ Court.

4. Further in the counter-affidavit, it is specifically stated that the compensation amount has already been deposited in the Sub Court, Salem under Sections 30 and 31(2) of the of the Old Act, 1984 and the possession of the lands has also been taken over on 19.11.1986 and mutation in the name of the Tamil Nadu Housing Board has also been effected in the revenue records. Further it is stated that ex-landowners



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also gave representations under Section 48(b) of the Old Act, 1984 and the same were rejected by the Tamil Nadu Housing Board on 08.03.2013. Therefore, the matter has to be remitted back to consider afresh all the above aspects.

5. Learned counsel for the land owners/private respondents in some of the writ appeals fairly submits before this Court that prayer as sought for in the writ petitions was to re-convey the land under Section 48 (b) of the Old Act, 1894. The writ court has not considered this aspect even though it has passed a justified reasoned order. He further submits that to some extent, the Writ Court has not considered the stand taken by the Housing Board in their counter. Hence, they seek to remit back the matter to the Writ Court and the same shall be considered by providing an opportunity to the land owners/private respondents to raise additional grounds, if any, after making amendment to the prayer.

6. Heard the parties and perused the materials on record.



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7. The Writ Court, while allowing the writ petitions has specifically observed as follows:

(i) There is a lapse of two years between draft declaration and award and as such the land acquisition officer had not strictly adhered to the land acquisition proceedings under the Old Act, 1894;

(ii) The award amount was deposited in the name of erstwhile owner and not the petitioners and;

(iii) There is a huge delay of 28 years from 4(1) Notification in implementing the Scheme.

8. The learned counsel for the appellant board submits that the Writ Court has not considered the counter-affidavit filed by the respondent board but has passed an order by simply holding that the said land was unutilized for more than 28 years and therefore the same is not required for the said purpose. Hence according to the learned counsel for the appellant-Housing Board without considering the specific statement made in the counter-affidavit, the Writ Court has allowed the writ petitions. Further it is submitted that in other batch of writ petitions under the same scheme wherein the Writ Court has passed orders by invoking Section 24(2) of the New Act 30 of



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2013, have been set aside and matter has been remitted back to the Writ Court. In such circumstances, the order passed by the Writ Court, impugned in the present Writ Appeals have to be set aside and the matter to be remitted back to the Writ Court for fresh consideration.

9. The writ court ought to have considered the requirement and utilization of the acquired land together with the other aspects like deposit of compensation amount in court, the formulation of Scheme, the sanction of huge amount for the Scheme by Government, etc. These aspects were not considered by the Writ Court while allowing the writ petitions. Therefore, we feel it is a fit case to interfere with the order of the Writ Court and remit back the same to the learned Single Judge to decide the case on its own merits.

10. We are of the view that as the other batch of writ appeals have been allowed and the order of the writ court in those batch of cases have been set aside and those matters have been remitted back to the writ court to consider afresh, the writ petitions which are with similar prayer sought by the land owners, have also to be remitted back on the similar line. Accordingly, on the aforesaid ground, the



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matter is remitted back to the Writ Court to consider afresh.

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11. With the above directions, the orders dated 05.01.2015 of the writ court in W.P.Nos.8743 to 8746 are set aside and consequently, these writ appeals stand allowed. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K., J.] [P.B.B., J.]
03.08.2023

Index : Yes/No
Neutral Citation : Yes/No
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D.KRISHNAKUMAR, J.
and
P.B. BALAJI, J.

(mrn)

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

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