



W.A.No.1572 of 2017

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.No.1572 of 2017 &
CMP Nos.20753 and 20754 of 2017

E.Arul Rakumar

... Appellant

versus

- 1.The State of Tamil Nadu,
Represented by its Secretary,
Department of Housing and Urban
Development,
Fort St.George,
Chennai-600 009.
- 2.The Chairman,
Tamil Nadu Housing Board,
Nandanam,
Chennai-600 035.
- 3.The Special Tahsildar,
Land Acquisition (L.A.)
Neighbourhood Scheme]
Tamil Nadu Housing Board
Salem District, Salem.
- 4.Jaya Watson
5. Enajalin Shalini
- 6.Staneli

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7.Nelson

8.Nalini

9.Rajasekar

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letter Patent against the order dated 10.04.2017 in W.P. No.6684 of 2016.

For Appellants : Mr.R.Prabhakaran

For Respondents : Mrs.Geetha Thamaraiselvan
Special Government Pleader
for respondents 1 and 3
Mr.A.M.Ravindranath Jeyapal
Standing Counsel for TNHB
for respondent No.2
(Batta due reg R4 to R9.
Not ready Notice reg R4 to R9)

JUDGMENT

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

Writ appeal No.1572 of 2017 has been filed before this Court challenging the order dated 10.04.2017 in W.P.No.6684 of 2016 passed by the Writ Court.

2. The case of the appellant is that the land to an extent of 26 cents in S.No.94/1B1, at Ayyamperumalpatti Village devolved on him as per Will dated 08.12.1995 of his grandfather Sigamani. According



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to the appellant the adjacent lands in S.No.94/1A1 admeasuring 1.75 acres and S.No.94/3A admeasuring 3.67 acres were exempted from the land acquisition proceedings and on parity his land also to be exempted from acquisition. With this request, he made a representation dated 14.01.2006 to the official respondents. As no action was taken by the official respondents, he filed W.P.No.6684 of 2016.

3. According to the appellant, after passing of the award, some of the land owners have filed W.P.No.33881 of 2013 and W.P.No.5023 of 1986, which were allowed on 29.01.2014 and 18.03.1996 respectively and exemption was granted to those petitioners from acquisition of their respective land.

4. According to the respondent, the Tamil Nadu Housing Board, Salem Housing unit has originally proposed for Housing Scheme in S.No.94/1A etc., along with 26 cents in S.No.94/1B1 of one Sigamani, who is the grandfather of the appellant herein, in Ayyamperumalpatti Village, Salem Taluk. Pursuant to the said proposal, a notification under Section 4(1) of the Land Acquisition Act was approved in



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G.O.Ms.No.755, Housing and Urban Development on 04.09.1981 and the same was published on 23.09.1981 at pages 4 to 7 of the Supplement to Part II Section 2 in the Tamil Nadu Government Gazette. As some of the land owners filed Writ petitions and obtained stay of an extent of 7.14 acres, the land acquisition proceedings limited to the remaining extent of 30.07 acres and Draft Declaration under Section 6 and Draft Declaration under Section 7 of the Land Acquisition Act were issued. Then, notices under Section 9(1)10 and 9(3)10 were issued to the land owners and enquiry was conducted on 12.09.1986 and Award No.11/1986-1987, dated 19.09.1986 was passed for an extent of 30.07 acres, including the land of 26 cents in S.No.94/1B1, registered in the name of Sigamani, grandfather of the appellant herein, under patta No.34.

5. Learned counsel for the appellant submits that as the land of the appellant was acquired 30 years back and was not put to use, the appellant is entitled for the relief under Section 24(2) of the Rights to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Learned counsel for the appellant further argues that as the adjacent lands were exempted from acquisition as



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per orders dated 18.03.1996 in W.P.No.5023 of 1986 and order dated 29.01.2014 in W.P.No.33881 of 2013, the same benefit has to be extended to the land of the appellant. As the learned Judge has not considered all these aspects in the impugned order, the same is liable to be set aside.

6. On the contrary, learned Special Government Pleader submitted that Sigamani, the owner of the subject land, who is the grand father of the appellant herein has appeared in the Award-enquiry and raised objection for acquisition but the same was rejected in public interest. The further contention of the learned Special Government Pleader is that after passing of the Award, compensation amount was deposited in the Sub-Court, Salem in LAOP.No.155 of 1988 under Sections 30 and 31(2) of the Land Acquisition Act and the property in question has been taken possession by the Housing Board. It is further submitted that the original owner Sigamani had participated in all the land Acquisition Proceedings but has not chosen to take steps to challenge the said proceedings till 2001. However, now the appellant seeks the relief of exemption of the subject land, pursuant to his representation in the year 2016. The learned Special



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Government Pleader submits that as the Award was passed in 1986, possession of the land in question was taken on 23.09.1996, the land was also transferred in the name of Housing Board under Patta No.446. After all this, the appellant in the year 2016 seeks exemption of the land through a representation dated 14.01.2016, which is untenable and therefore there is nothing to interfere in the order of Writ Court dated 10.04.2017 passed by the learned Single Judge. Accordingly, he prays for the dismissal of the writ appeal

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

8. The Hon'ble Supreme Court in the case of ***Tamil Nadu Housing Board vs Keeravani Ammal 2007 (2) and Ors CTC 447***, has specifically held that in a case where Award was passed, possession of the land was taken, compensation was deposited, possession was handed over to the Housing Board and the Scheme was in operation and not abandoned, then there cannot be any plea of re-conveyance by the land owner. This decision of the Hon'ble Supreme Court squarely applies to the facts of the present case. In the case on hand, in respect of the subject-land Section 4(1)



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Notification was approved as per G.O.Ms.No.755, H&UDD, dated 04.09.1981, Gazette Publication was made on 23.09.1981, Section 6 Declaration was approved in G.O.Ms.No.608, H&UDD, dated 03.08.1984 and was published on 16.08.1984. All through, in the enquiry proceedings, the original owner of the land Sigamani had participated in the enquiry and finally the Award was passed. The original owner Sigamani had not chosen to challenge the said proceedings. It is seen that Award amount was deposited in LAOP No.155/1988 and the possession was taken by the Special Tahsildar, Salem, on 23.09.1996 and it was handed over to the Tamil Nadu Housing Board and mutation of records was also effected in the revenue records as per Patta No.446. Thus, after the completion of the acquisition proceedings in all aspects in the year 1996, the appellant presented a representation dated 14.01.2016, belatedly, after more than a decade seeking exemption of the subject land from acquisition, which suffers due to extraordinary delay and latches. The learned Single Judge has taken all the above aspects into consideration and rightly dismissed the writ petition and therefore nothing warrants to interfere in the said decision of the learned Single Judge.



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9. In the above circumstances, the Writ Appeal is dismissed in view of the decision of the Hon'ble Supreme Court in the case of **Tamil Nadu Housing Board vs Keeravani Ammal reported in 2007(2) CTC 447**, confirming the order dated 10.04.2017 in W.P.No.6684 of 2016 passed by the Writ Court. There will 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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To

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The State of Tamil Nadu,
Department of Housing and Urban
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