



W.P.No.31205 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.31205 of 2023

and

W.M.P.No.30838 of 2023

- 1.Ahmedishameem
- 2.Arifa Thasim
- 3.Fahim Hafiz
- 4.Syed Ahmed Mohideen
- 5.Syedabadar Fouzia
- 6.Syed Mohameed Ghouse
- 7.Athiya Hamid
- 8.Syeda Fariha Kulsum
- 9.Vahab SyedaAyisha Bathul
- 10.Imrana Tabassum Irfan
- 11.Syeda Rumana Anjum Irfan
- 12.Syeda Shabana Tajassum Irfan
- 13.Saud Syed Irfan

[petitioners are represented by their
Power Agent L.Vijayasanthi]

... Petitioners

versus

- 1.The State of Tamil Nadu
Rep.by The Secretary to Government,
Revenue Department,
Secretariat, Chennai – 600 009.



W.P.No.31205 of 2023

2.M/s.Burn Standard Co., Ltd.,
Rep.by its General Manager,
Salem – 636 005.

3.M/s.Sail Refractory Co., Ltd.,
Rep.by its Chief Operating Officer,
Salem Steel Plant,
Salem – 636 005.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus directing the first respondent to consider the petitioners' representation dated 21.08.2023 to re-convey the lands measuring 5.37.0 hectares comprised in S.F.Nos.2/7 and 2/8, Jakir Ammapalayam Village, Salem West Taluk, Salem District, which are kept idle and unused for the past 30 years.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.P.Gurunathan
Additional Government Pleader for R1

ORDER

Mr.P.Gurunathan, learned Additional Government Pleader takes notice for the first respondent. Since no adverse order is passed as against respondents 2 and 3, notice to those respondents is dispensed with.



W.P.No.31205 of 2023

2.This Writ Petition has been filed seeking for issuance of a Writ of

Mandamus, directing the first respondent to re-convey the lands admeasuring 5.37.0 hectares comprised in S.F.Nos.2/7 and 2/8, Jakir Ammapalayam Village, Salem West Taluk, Salem District, which are kept idle and unused for the past 30 years, by considering the representation of the petitioner dated 21.08.2023.

3. The averments in short made by the petitioner, are as follows :

(i) The subject properties measuring an extent of 13.21 acres comprised in S.F.Nos.2/7 and 2/8 situated at Jakir Ammapalayam Village, Salem Taluk and District was originally owned by one late Haji Syed Abdul Wahab Shuttari. He had executed a registered lease deed dated 07.03.1958 in favour of one M/s.Magnate Syndicate Ltd., for a period of thirty years. The said company was taken over by the Government of India and renamed as the second respondent herein. When the lease period got expired on 31.12.1987, the original owner issued a legal notice dated 21.07.1990 to the second respondent to vacate and surrender the possession on or before 30.08.1990. Since the second respondent failed to deliver the possession,



W.P.No.31205 of 2023

the original owner filed a suit in O.S.No.1019 of 1990 on the file of the Principal Sub Court, Salem against the second respondent for declaration, delivery of possession and for damages, and as a counter case, the second respondent also filed O.S.No.385 of 1992 seeking permanent injunction. The trial Court, after joint trial decreed the suit in O.S.No.1019 of 1990 and dismissed the suit in O.S.No.385 of 1992 by a common judgment dated 16.09.1992. Aggrieved by the said decree in O.S.No.1019 of 1990, the second respondent preferred an appeal in A.S.No.96 of 1993 before this Court and the same was allowed holding that the appellant/2nd respondent is the absolute owner of the demised lands from 12.06.2000 i.e. from the date of the Award.

(ii) Pending suits, the second respondent had approached the Government to acquire the subject properties. Accordingly, the State of Tamil Nadu, Industries Department, issued a notification under Section 4(1) of the Land Acquisition Act, 1884 vide G.O.(2D) No.185, dated 18.06.1992. Subsequently, a declaration under Section 6 of the Land Acquisition Act



W.P.No.31205 of 2023

was also issued, vide G.O.(2D).No.184, dated 18.08.1993 and an Award was also passed.

(iii) Subsequently, the second respondent issued a tender for sale of freehold surplus lands measuring an extent of 29 acres lying nearby the acquired lands. Hence, the original owner Haji Syed Abdul Wahab Shuttari gave a representation dated 09.01.2001 to the first respondent to re-convey the lands, since the second respondent was in possession of vast extent of lands nearby to dump the waste materials from mines. Since there was no response from the first respondent, the petitioner filed W.P.No.1175 of 2001 before this Court and this Court by an order dated 23.01.2001, had given a direction to the first respondent to pass appropriate orders on the said representation. Based on the directions, the Tahsildar, Salem issued notice for enquiry. Both the parties have submitted their objections. However, in view of the inaction, the said Haji Syed Abdul Wahab Shuttari issued a legal notice dated 15.11.2004 to respondents 1 and 2. Thereafter, the matter is pending before the first respondent, till date. The said Haji Syed Abdul Wahab Shuttari had continued to persuade the first respondent till he died



W.P.No.31205 of 2023

on 14.11.2014. Thereafter, the writ petitioners 1 to 9 herein, who are the legal heirs of the said Haji Syed Abdul Wahab Shuttari, appointed one L.Vijayasanthi as their Power Agent. Further, writ petitioners 10 to 13, being the legal heirs of late Syed Ghousia Nasireen have also given Power of Attorney to the said L.Vijayasanthi.

(iv) While so, on enquiry, it came to know that the second respondent had executed a bogus and unregistered sale deed of transfer dated 16.12.2011 in favour of the third respondent for a larger extent of the properties including the subject properties. Further, the TSLR extracts for S.F.Nos.2/7 and 2/8 corresponding to T.S.No.2/4 and 2/2 are also stands in the name of the said Haji Syed Abdul Wahab Shuttari till date. The entire extent of land is lying vacant and it has not been utilised for any purpose between 1992 and 2023. Therefore, the Power Agent of the petitioners has given a representation dated 21.08.2023 to the first respondent requesting them to re-convey the subject properties. Since the said representation has not been considered by the first respondent, the petitioners are before this Court.



W.P.No.31205 of 2023

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4. The learned counsel for the petitioners submitted that originally subject lands were acquired for the purpose of establishing an industrial estate. After acquisition, for more than three decades, the second respondent has not taken any steps to utilise the said lands, and the scheme was also abandoned. Therefore, the petitioners are entitled to get back their lands, since the scheme for which the land was acquired is abandoned. The learned counsel for the petitioner further submitted that this Court has got ample power to pass an order to re-convey the lands, since after acquisition i.e. even after three decades the said lands were not utilised. However, the second respondent has taken some steps to sell the adjacent lands, hence, the petitioners made a representation to re-convey the lands. He further submitted that while the father of petitioners 1 to 9 was alive he made a representation to the first respondent to re-convey the lands and this Court has also has given directions to consider the said application, however, the official respondents have not considered the said representation and petitioners' father also died. Therefore, this Court may direct the respondents to consider the said representations.



W.P.No.31205 of 2023

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5. Admittedly, the said land was acquired in due process of law for the purpose of establishing the industrial estate. However, one reason or other reason the scheme was subsequently dropped and the scheme was now abandoned. Admittedly, the acquisition was completed in due process of law and the award amount also paid and revenue records also transferred in the name of the second respondent. Therefore, once the acquisition proceedings are completed under due of process of law, Award amount has been paid and possession was taken, the Government can use the same for some other purpose. The said lands were acquired for public purpose. It is not out of place to mention that policy decision of the Government will change from time to time. Further getting the lands from the private persons for the public purpose is very difficult and they have to follow due process of law and even the Government is facing several litigations during the process of acquisition. If for any reasons, the Government was not in a position to utilize the acquired land inadvertently for the purpose it was acquired and in case it is needed for some other purpose, the same can be



W.P.No.31205 of 2023

utilized for that purpose and the Government need not go for other lands for the same.

6. Considering the facts and circumstances, this Court is of the opinion that this type of cases cannot be entertained, therefore, this writ petition is dismissed. However, there is no impediment to the officials to consider the representation submitted by the petitioners as well his father.

7. For the foregoing reasons, this Writ Petition is dismissed. There shall be no order as to costs.

8. W.M.P.No.30838 of 2023 is ordered on payment of separate Court fees by each of the petitioners.

01.11.2023

Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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W.P.No.31205 of 2023

To

The Secretary to Government,
The State of Tamil Nadu,
Revenue Department,
Secretariat, Chennai – 600 009.



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W.P.No.31205 of 2023

P.VELMURUGAN, J.

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W.P.No.31205 of 2023

01.11.2023