



Writ Petition No.298 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 21/2/2023

C O R A M

THE HONOURABLE Mr.JUSTICE N. SATHISH KUMAR

Writ Petition No.298 of 2020

R. Seetharaman ... Petitioner

Vs

1. Government of Tamil Nadu
rep. By its Secretary to Housing and
Urban Development Department
Fort St. George
Chennai 600 009.

2. Tamil Nadu Housing Board
rep. By its Chairman
Nandanam
Chennai 600 035.

3. The Tahsildar
Sholinganallur Taluk
Kancheepuram District.

4. The Commissioner
Pallavarapuram Municipality
Chennai 600 044.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records of the fourth respondent in Letter No.Na.Ka.No.5093/2019/F1 dated 17/10/2009 and quash the same and consequently, direct the second and



fourth respondents on the petitioner's representation dated 28/6/2019 in respect of the petitioner's land to an extent of 40 cents comprised in S.No.323/11B1 and to an extent of 77 cents comprised in S.No.323/11D, Keelkattalai Village, Alandur Taluk, Kancheepuram District, without insisting the petitioner to produce No Objection Certificate from the second respondent for processing the same.

For Petitioner ... Mr.V.Lakshmi Narayanan
for Mr.C.Iyyapparaj

For respondents ... Mr.N.Nareenkumar
Government Advocate
for R.R.1 and 3.

Mr.A.M.Ravindranath Jayapaul
for R.2.

Mr.P.Srinivas
for R.4.

ORDER

This writ petition has been filed to quash the order, dated 17/10/2009, passed by the fourth respondent in Letter No.Na.Ka.No.5093/2019/F1 and consequently, direct the second and fourth respondents, on the petitioner's representation, dated 28/6/2019, in respect of the petitioner's land to an extent of 40 cents comprised in S.No.323/11B1 and to an extent of 77 cents comprised in S.No.323/11D, Keelkattalai Village, Alandur Taluk,



Kancheepuram District, without insisting the petitioner to produce No Objection Certificate from the second respondent for processing the same.

2. Though the petitioner is not a party to the earlier batch of writ petition, this Court, by an order, dated 11/6/1999, quashed the entire land acquisition proceedings, on the ground of non compliance of Rule 3 (b) of the Act and also on the ground that Section 6 declaration was not issued within the period of one year from the date of 4 (1) Notification.

3. Appeal filed as against the order of the learned Single Judge is also dismissed in W.A.SR.No.9270 of 2011, vide, order, dated 29/4/2013. Further, no other Notification whatsoever was issued to acquire the lands. Hence insisting on No Objection Certificate from the respondents is not at all required and it is the stand of the petitioners that similarly situated persons filed W.P.Nos.17818 and 10783 of 2011 and this Court, by an order, dated 26/2/2018 and 16/9/2019 respectively, held that since the land acquisition proceedings initiated by the Government of Tamil Nadu have already been quashed, vide, order, dated 11/6/1999 in W.P.No.20300 of 1994, the first respondent therein was directed to consider the request of the petitioner for grant of planning permission within a period of two weeks



from the date of receipt of the said order.

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4. Mr.A.M.Ravindranath Jayapaul, learned counsel appearing for the second respondent submitted that as the petitioner has not challenged the acquisition proceedings, earlier judgment will not apply. According to the learned counsel, judgment passed in the earlier writ petition is only a judgment *in personam* and not a judgment *in rem*. Hence, the petitioner is not entitled for No Objection Certificate.

5. Relying upon the judgment made in Civil Appeal No.8197 of 2022, dated 2/12/2022, LAND ACQUISITION COLLECTOR (SOUTH), NEW DELHI AND ANOTHER Vs. SURESH B.KAPUR & ORS, wherein the Hon'ble Supreme Court has held that judgment would be applicable only to the petitioners and would not be a judgment *in rem* and the issue before the Apex Court in Civil Appeal No.8197 of 2022 was whether the acquisition of lands in question is deemed to have lapsed under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

6. I have perused the entire materials available on record.



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7. In the land acquisition proceedings, totally 23.43.5 hectares were acquired. Though the petitioner was not a party before this Court in the challenge to the Notifications issued under Sections 4 and 6 of the Land Acquisition Act, this Court, considering the fact that as there was non-compliance of Rule 3 (b) of the Act and Section 6 Declaration was not issued, within a period of one year, from the date of 4 (1) Notification, the entire acquisition proceedings were quashed. When the procedural mandate provided under the Land Acquisition Act, 1894 was not complied with, which, on challenge, was quashed in entirety by this Court, merely because the petitioner was not a party in the earlier writ petition would not be a bar for the petitioner to claim the relief which had enured in favour of the petitioners, who had challenged the acquisition proceedings. The illegalities perpetrated in the non-compliance of the procedural formalities in the acquisition process cannot legalise the acquisition process, thereby setting at naught the relief available to the petitioner herein merely on the ground that the petitioner herein had not challenged the acquisition proceedings anterior in point of time.

8. The decision relied on by the respondent in Suresh B.Kapur's case



totally stands on a different footing, as in the said case, while a few persons challenged the acquisition process by filing W.P. No.1639/1995, which acquisition process was quashed by the High Court, however, at the same point of time, the impugned acquisition proceedings was under challenge before the Supreme Court in the case of UNION OF INDIA - VS- GURDEEP SINGH UBAN and therein, based on the above stated scenario, the Supreme Court held that the judgment in W.P. No.1639/1985 would not be a judgment *in rem*. However, the case on hand is totally different and in no way fits with the facts and circumstances of the case as was projected before the Supreme Court in *Gurdeep Singh Uban's case* and, therefore, would be of no help to the respondents.

9. For the reasons aforesaid, this writ petition is allowed and the Letter in Na.Ka.No.5093/2019/F1, dated 17/10/2019 is quashed and respondents 2 and 4 are directed not to insist the petitioner to produce No Objection Certificate.

21/2/2023

Index : Yes / No

Neutral Citation: Yes/No
mvs.



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To

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1. The District Collector
Coimbatore.
2. The Commissioner
Coimbatore City Municipal Corporation
Big Bazaar Street, Town Hall
Coimbatore 641 001.

N. SATHISH KUMAR, J
mvs.



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