



W.P(MD)No.17635 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.09.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.17635 of 2015

1.P.Raman

2.P.Muthu

3.P.Subbuthai

... Petitioners

v.

1.The Secretary to Government,
Government of Tamil Nadu,
Handloom, Handicrafts,
Textiles & Khadi Department,
St.George Fort, Chennai.

2..The Special Commissioner and
Commissioner of Land Administration,
Ehilagam, Chennai.

3.The District Collector,
Madurai District, Madurai.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the first respondent to take all necessary steps to issue notification under Section 48-B of the Land Acquisition Act, 1994 and to transfer the land in R.S No.41/2A1B measuring an extent of 59 cents situated at Thirupparankundram Village, Madurai South



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Taluk, Madurai District District to the petitioners on the basis of the report submitted by the third respondent to the 2nd respondent vide Roc No. 75931/2009/B4 dated 23.04.2008 in accordance with law within the time stipulated by this Court.

For Petitioner : Mr.P.R.Prithviraj

For Respondents : Mr.D.Gandhiraj,
Special Government Pleader

ORDER

The learned counsel appearing of the writ petitioners reports no instructions. Memo has been filed to this effect. The petitioners have not made any alternative arrangements.

2.The prayer in the writ petition is for reconveyance under Section 48(B) of the Land Acquisition Act, 1894. I went through the contents of the affidavit filed in support of the writ petition.

3.The respondents have filed a detailed counter affidavit and the learned Additional Government Pleader took me through its contents. It is seen that the lands that belonged to Periyakaruppathevar were acquired way back in the year 1956 along with other lands. The Government had handed over the same to Sri Meenakshi Mills, Madurai. While so, one Ponnusamy Chettiyar filed WP No. 5311 of 1986 and obtained re-transfer. Based on the same, one Janakiraman



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and others filed W.P(MD)No.14245 of 2011 and the same was disposed of on 05.12.2014. Questioning the same, the Government filed W.A (MD) No.965 of 2015. The writ appeal was allowed on 02.11.2015 in the following terms :

“29. Thereafter, two petitions for review were filed and those petitions were dismissed by the Supreme Court. Hence, it is clear that there is no comparison between the proceedings relating to Thirupparankundram land and the proceedings relating to the present land. As we have pointed out earlier, the land owners, whose rights got extinguished long before the insertion of Section 48-B, cannot resurrect their claim from where they are buried to compel the Government with a positive mandamus to reconvey the land under Section 48-B. The very validity of Section 48-B was doubted by the Supreme Court in Keeravaniammal. It is true that validity has now been upheld by a Division Bench of this Court in Anti Corruption Movement, rep.by its General Secretary vs. The Chief Secretary to Government of Tamil Nadu and others [W.P.No.10896 of 2013, dated 10.03.2015]. That does not mean that Section 48-B confers an absolute right.

30. With the increase in the value of the properties, there is clamour for using, misusing or abusing Section 48-B. Court cannot encourage such activities, by issuing positive mandamus. Hence this writ appeal is allowed and the impugned order of the learned Single Judge is set aside. We make it clear that what we have rejected is only the prayer of the land owners



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for reconveyance. But, insofar as the resumption of lands is concerned, the Government is empowered and also duty bound if the terms and conditions of the allotment are violated by the beneficiary company. Therefore, the Government may take appropriate action in that regard.”

The stand of the respondents is that the present case is also similarly placed. The fate that met the petitioner in W.P(MD)No.14245 of 2011 should fall on the present petitioner also. I endorse the stand of the respondents.

4. My attention is drawn to the decision of the Hon’ble Apex Court reported in (2012) 12 SCC 133 (V.Chandrasekharan vs. Administrative Officer). The Hon’ble Apex Court held that the land once vested in the State, free from all encumbrances cannot be divested. In this case, the original land owner had been paid compensation. The land was handed over to Meenakshi Mills and from Meenakshi Mill, it passed on to GHCL. It is too late in the day to put the clock back. When third party rights have intervened, it is not open to the Government to invoke its power under Section 48(B) of the 1894 Act. This writ petition is without merit. It stands dismissed.

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Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA



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To

- 1.The Secretary, Housing and Urban Development,
St.George Fort, Secretariat, Chennai – 600 009.
- 2.The District Collector, Madurai District, Madurai.
- 3.The Tahsildar, Thirumangalam Taluk Office, Madurai District.
- 4.The Commissioner of Police, Madurai Town, Madurai.
- 5.The Commissioner of Corporation, Madurai Corporation, Madurai.
- 6.The Assistant Commissioner (Zonal), Madurai Corporation, Madurai.



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G.R.SWAMINATHAN, J.

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and
M.P(MD)No.1 of 2014

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