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W.P.(MD)NO.6547 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.6547 of 2015

Somasundaram Muthuramakrishnan,
S/o.Late Somasundarampillai,
Rep. by his Power Agent
A.Sankaranarayanan

... Petitioner

Vs.

1. The State of Tamilnadu,
Rep. by its Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai – 600 009.
2. The Tamil Nadu Housing Board,
Rep. by its Chairman,
Anna Salai, Nandanam,
Chennai – 600 035.
3. The Executive Engineer and
Administrative Officer,
Tamil Nadu Housing Board,
Ellis Nagar, Madurai.
4. The District Collector,
Madurai.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to disburse the compensation due to the



petitioner for the land in S.No.4/4, now subdivided 4/4B2 an extent of 37.5 cents of Ponmeni Village, Madurai within a time to be stipulated.

(Prayer is amended vide order dated 14.09.2023 in W.M.P. (MD) No.8596 of 2023)

For Petitioner : Mr.S.Venkatesh,
for Mr.A.Sivaji.

For R-1 & R-4 : Mr.R.Baskaran,
Additional Advocate General,
assisted by,
Mr.M.Sidharthan,
Additional Government Pleader.

For R-2 & R-3 : Mr.R.Sivakumar

* * *

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Additional Advocate General assisted by the learned Additional Government Pleader appearing for the Government and the learned counsel appearing for the Tamil Nadu Housing Board.

2. The Government of Tamil Nadu initiated proceedings under the Land Acquisition Act for acquiring 21.57 acres of land in Ponmeni Village in Madurai South Taluk for Ellis Nagar Land Development Scheme of Tamil Nadu Housing



Board. The acquired lands included 68 cents of land belonging to one Somasundaram Pillai. The writ petitioner claims 37 ½ cents out of the same on the basis of a Will that is said to have been executed by the said Somasundarm Pillai. The case of the petitioner is that the Government failed to pay any compensation for the said acquisition. The petitioner's effort to secure reconveyance also did not fructify. Hence, this writ petition came to be filed.

3. The respondents are not quite clear as to what had happened. Some of the land owners filed writ petitions questioning the acquisition proceedings. They had succeeded and the acquisition proceedings in respect of their lands were dropped. The Board was under the impression that the proceedings in respect of Somasundaram Pillai had also been quashed. The petitioner's counsel had established before this Court that the writ petition filed by Somasundaram Pillai's son Ramakrishnan challenging the acquisition was dismissed (W.P.No.6462 of 1983 vide order dated 30.07.1991).

4. In fact the materials enclosed in the typed set of



papers show that the petition-mentioned land was taken over by the jurisdictional Tahsildar and it was handed over to the Tamil Nadu Housing Board. On 22.11.1982, award enquiry had also been held. In these circumstances, I have to necessarily conclude that the petition-mentioned land continues to vest either with the Board or with the Government. At present the petition-mentioned property appears to be in the hands of a third party. The petitioner cannot be left high and dry. He must be paid compensation or given the property free of any encumbrance. This is of course subject to the petitioner proving his title.

5. The writ petition is therefore disposed of by directing respondents 2 and 4 to secure possession of the petition-mentioned property by adhering to due process of law. The occupant will be given notice. As and when such notice is received, the occupant is bound to challenge the same. In such proceedings, the petitioner can very well implead himself. *Prima facie*, I am of the view that the properties vest with the Government. If the Government had handed over possession to the Tamil Nadu Housing Board, it will vest with the Board.



Either the Government or the Tamil Nadu Housing Board will have to invoke their summary powers to secure possession of the petition-mentioned property. The third party-occupant can also prove his right over the property. In any event, the entire exercise shall be completed within a period of eight months from the date of receipt of a copy of this order. If the matter by chance goes to the civil Court, considering the long lapse of time in resolving the issue, the case will be taken up on priority basis and given disposal within eight months. The Government will take a call in the matter at the end. Appropriate compensation as per law together with interest and other benefits will be given to the writ petitioner subject to his establishing ownership and title. If the Tamil Nadu Housing Board do not want to retain the property, the property shall be handed over to the petitioner free of encumbrance. This writ petition stands disposed of accordingly. No costs.

29.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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6

W.P.(MD)NO.6547 OF 2015

G.R.SWAMINATHAN,J.

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To:

1. The Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai – 600 009.
2. The District Collector,
Madurai.

W.P.(MD)No.6547 of 2015

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