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W.A.Nos.43 & 44 of 2012 & 1834 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2024

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.A.Nos.43 & 44 of 2012 & 1834 of 2011
and
C.M.P.No.1401 of 2018 in W.A.No.44 of 2012,
C.M.P.No.559 of 2018 in W.A.No.43 of 2012,
M.P.No.1 of 2011 in W.A.No.1834 of 2011,
M.P.No.1 & 2 of 2012 in W.A.Nos.43 and 44 of 2012
M.P.No.1 of 2014 in W.A.No.44 of 2012

W.A.No.43 of 2012

Tamil Nadu Housing Board,
Represented by its Executive Engineer &
Administrative Officer,
Hosur Housing Unit,
Bagalur Road,
Hosur - 635 109.

... Appellant/Third party

Vs.

1. Kuppaiyah @ Kuppusamy
2. The State of Tamil Nadu,
Represented by its Commissioner and Secretary
to Government,
Housing & Urban Development Department,
Fort St.George,
Chennai - 600 009.
3. The Special Tahsildar,
(Land Acquisition),

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Housing Scheme, Hosur,
Dharmapuri District.

... Respondents
/Respondents 1 and 2

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Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order in W.P.No. 16881 of 1994 dated 20.04.2001.

For Appellant : Mr.P.Kumaresan
Additional Advocate General
Assisted by
Mr.M.Arunkumar
Standing Counsel for TNHB

For R1 : Mr.K.Rajkumar
for Mr.R.Bharathkumar

For R2 & R3 : Mr.A.Selvendran
Special Government Pleader

W.A.No.44 of 2012

Tamil Nadu Housing Board,
Represented by its Executive Engineer &
Administrative Officer,
Hosur Housing Unit,
Bagalur Road,
Hosur - 635 109.

... Appellant/third party

Vs.

1.Thimmarayappa (died)
2.Ramanji
3.Venu
4.Chikkanna (died)
5.Venkatappa (died)
[R5 is LRS of R4, already on record]
6.The State of Tamil Nadu,
Represented by its Commissioner and
Secretary to Government,



W.A.Nos.43 & 44 of 2012 & 1834 of 2011

Housing & Urban Development Department,
Fort St.George,
Chennai - 600 009.

7.The Special Tahsildar,
(Land Acquisition),
Housing Scheme, Hosur,
Dharmapuri District.

8.Krishnappa (Died)

[R1 died. R8 brought on record as LRS of the deceased R1]

9.Venkatesh (Died)

10.Eramma

11.Veerapathra

12.Muniraj

13.Bharathi

14.Siva

15.Babu

16.Anand

17.Manjula

[R8 died, RR9 to 17 are brought on record as LRS of the deceased R8]

18.Santhamma

19.Renuka

20.Minor Deepika

[R9 died, RR18 to 20 brought on record as LRS of the deceased R9]

21.V.Krishnappa

22.Govindappa

23.Yasodha

... Respondents

[R5 died, RR21 to 23 are brought on record as LRS of the deceased R5 viz.,
Venkatappa *vide* order dated 24.01.2018 made in M.P.No.01 of 2014 in
W.A.No.44 of 2012 by KKSJ, PVJ]

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the
order dated 20.04.2001 in W.P.No.16882 of 1994.

For Appellant : Mr.P.Kumaresan
Additional Advocate General



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Assisted by
Mr.M.Arunkumar
Standing Counsel for TNHB

For R1, R4, R5,
R8 & R9 : Died (Steps taken)
For R2, R3, R10 to
R20 & R23 : Mr.R.Bharathkumar

For R21 : Not Ready in Notice
For R22 : No appearance

W.A.No.1834 of 2011

Tamil Nadu Housing Board,
Represented by the Chairman cum
Managing Director.

... Appellant/Respondent No.1

Vs

1. Sadiq Mohamed

... Respondent/Writ Petitioner

2. The Special Tahsildar,
Land Acquisition,
Housing Scheme,
Hosur, Krishnagiri District.

... Respondent/RespondentNo.2

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 09.11.2009 made in W.P.No.22508 of 2009.

For Appellant : Mr.P.Kumaresan
Additional Advocate General
Assisted by
Mr.M.Arunkumar
Standing Counsel for TNHB
For R1 : Mr.R.Bharathkumar
For R2 : Mr.A.Selvendran
Special Government Pleader



W.A.Nos.43 & 44 of 2012 & 1834 of 2011

COMMON JUDGMENT

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(Judgment of the Court was made by **S.M.SUBRAMANIAM, J.**)

W.A.Nos.43 and 44 of 2012 have been instituted challenging the writ order dated 20.04.2001 passed in W.P.Nos.16881 and 16882 of 1994 and W.A.No.1834 of 2011 has been instituted challenging the order dated 09.11.2009 passed in W.P.No.22508 of 2009.

2. The writ petitions were instituted challenging Section 6 Declaration made under the Land Acquisition Act. When the writ petitions were taken up for hearing, the learned Counsel appearing on behalf of the Tamil Nadu Housing Board and Special Tahsildar, Land Acquisition, conceded before the Court by stating that the issues are covered by an order of this Court passed in W.A.Nos.20690 to 20693 of 1994. Thus, the writ Court has not adjudicated the facts raised between the parties, and allowed the writ petitions by passing a short order, which would simply state that the respondents made a submission that the issues are covered. Merely on the basis of the single statement made on behalf of the respondents, the writ petitions were allowed.



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3. The writ appeals have been instituted by the Tamil Nadu Housing Board and the writ appeals have been admitted by this Court by condoning the delay.

4. Mr.P.Kumaresan, the learned Additional Advocate General appearing on behalf of the appellant would submit that the Tamil Nadu Housing Board was not impleaded as party in the writ proceedings, in spite of the fact that TNHB is the requisitioning body. In other words, without impleading the requisitioning body, the learned Counsel appeared on behalf of the Land Acquisition Officer conceded before the Court that the issues are covered and consequently, the writ petitions were allowed.

5. The learned Additional Advocate General would submit that Section 4(1) Notification under the Land Acquisition Act, 1894 was issued on 09.01.1991. Declaration under Section 6 of the Act was made on 21.12.1992. An award was passed by following the due process on 20.12.1994. The impugned writ orders were passed after a lapse of about seven years. Possession was taken by TNHB during the relevant point of time and the Scheme is unable to be implemented, on account of *lis pendens*.



6. The learned Additional Advocate General would further submit that the compensation determined by the competent Authority had been deposited, soon after passing of an award under the Land Acquisition Act. Therefore, Section 24(2) of the New Act cannot be invoked for the purpose of nullifying the land acquisition proceedings initiated in the year 1991.

7. The manner in which the writ petitions and the writ appeals are dealt with by the parties would apparently reveal that the Judicial process has been abused. The lands are acquired in the year 1991 for public purposes. One way or other and by sustaining legal proceedings, the litigants are attempting to abuse the process in order to thwart the acquisition proceedings initiated by the Government for public purposes.

8. Therefore, we are of the considered opinion that no further leniency can be shown to the respondents in such matters. Since award was passed in the year 1994 and the compensation determined was deposited thereafter, the respondents are at liberty to approach the competent Authorities for the purpose of receiving the compensation by following the due process. The respondents by submitting proof regarding ownership as to



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title are entitled to receive compensation as determined by the Land Acquisition Officer. However, the orders passed by the learned Single Judge is breft of details regarding the factual aspects and more-so, the procedures followed would reveal that there is no infirmity. The lands acquired belongs to Government and on completion of acquisition proceedings, title transferred to the Government. Any person in occupation of the acquired land is an encroachers, and liable to the evicted.

9. Thus, the impugned writ order dated 20.04.2001 & 09.11.2009 passed in W.P.Nos.16881 and 16882 of 1994 and W.P.No.22508 of 2009 are set aside and the writ appeals are **allowed**. No costs. Consequently, connected miscellaneous petitions are closed.

[S.M.S., J.] [C.K., J.]
01.08.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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To

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Bagalur Road,
Hosur - 635 109.
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W.A.Nos.43 & 44 of 2012 & 1834 of 2011

S.M.SUBRAMANIAM, J.
AND
C.KUMARAPPAN, J.

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Judgment in
W.A.Nos.43 & 44 of 2012 & 1834 of 2011

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