



Writ Appeal No.727 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.02.2024

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**Writ Appeal No. 727 of 2009
CMP.No.2506 of 2024**

- 1.S.Murugesan
- 2.C.Ramaraj
- 3.K.Sadiyandi
- 4.P.Paramasivam
- 5.V.Murugan
- 6.Mrs.Palaniammal
- 7.Pasupathi
- 8.M.Sundaram
- 9.Oorkavalan
- 10.S.Chinnasisamy
- 11.T.Paraman
- 12.Ganapathy
- 13.Seeniammal
- 14.K.Selvam
- 15.Andichiyammal
- 16.Palaniammal
- 17.S.Kumarasan
- 18.Parvathy
- 19.Seeniammal
- 20.S.Raj
- 21.Lazar
- 22.Sonaimuthu
- 23.P.Ramakrishnan



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- 24.Seethaiammal
- 25.C.Thirupathi
- 26.M.Mookaiya
- 27.Sarvarani
- 28.A.Subbu
- 29.Muniammal
- 30.K.Simson
- 31.R.Elizabeth
- 32.Periyanachi
- 33.Rajakani
- 34.Mary
- 35.B.Vellaichamy
- 36.Muniammal
- 37.Rasathi
- 38.Pichaimani
- 39.Mariammal
- 40.K.Mookaiya
- 41.C.Muduvan
- 42.V.Ganesan
- 43.M.Mani
- 44.M.Elangovan
- 45.S.Subbaiya
- 46.Gnanasigamani
- 47.P.Palraj
- 48.C.Indurani
- 49.R.Murugesan
- 50.P.Muniammal
- 51.R.Palanisamy
- 52.A.Munyandi
- 53.S.Ravi
- 54.R.Kalaipandi
- 55.A.Raja
- 56.M.Govindan
- 57.A.Madurai
- 58.K.Sundaraj
- 59.Boopathy



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60.Malaichamy
61.Rajamani
62.Chinnasubburaj
63.Murugeswari
64.Pushpam
65.Murthy
66.Jayaraj
67.Karuppaiah
68.Singaram
69.Velliyammal
70.Kanchana
71.S.Jagan
72.Veerammal
73.Chellammal
74.Aasai
75.Muthammal
76.Chinnakuruvi
77.A.Loganathan
78.Saraswathi
79.Suthandiram
80.Easaran
81.M.Karuppaiah
82.Gurunathan
83.Rajaguru
84.S.Baghayaraj
85.Kallaiammal
86.Chinnasi
87.Jayakumari

... Appellants

Vs

1.The Secretary to Government of Tamil Nadu
Adi-Dravidar & Tribal Welfare Dept.,
Fort St., George, Madras.



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2.The Special Thasildar &
Land Acquisition Officer (Harijan Welfare)
Thamaraikulam, Periyakulam,
Madurai District.

3.Ms.Asiya Mariyam ... Respondents

PRAYER: Writ Appeal has been filed under Clause 15 of Letter Patent against the order dated 28.07.2000 made in W.P.No.5424 of 1994.

For Appellants :Mr.S.Siva Shanmugam

For Respondent :Mr.S.John J.Raja Singh AGP for RR1&2

Mr.M.Ajmal Khan Senior counsel for
M/s.Ajmal Associates for R3

JUDGMENT

(Judgment of the Court was made by K.KUMARESH BABU.,J.)

Heard Mr.S.Siva Shanmugam, learned counsel appearing for the appellants, Mr.S.John J.Raja Singh, learned Additional Government Pleader appearing for the respondents 1 &2 and Mr.M.Ajmal Khan learned Senior counsel appearing for the third respondent.

2. This Writ Appeal had been preferred by the beneficiaries challenging the order impugned, wherein the learned Single Judge had



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quashed the land acquisition proceedings initiated at the instance of the legal heirs of the deceased land owners.

3. The claim of the appellants in this appeal is that after the acquisition proceedings was over, the lands were allotted to the appellants herein and patta has also been issued. The appellants were not put on notice of the Writ Petition in which the impugned order was passed. The learned counsel for the appellants would submit that the learned Single Judge had not been appraised of the aforesaid fact only on the ground that the mandate of the land acquisition proceedings have not been followed, had allowed the Writ Petition. Therefore, he would submit that the order of the learned Single Judge would have to be interfered and revisited.

4. It has been repeatedly held that a beneficiary cannot be an aggrieved person in a proceedings under the Land Acquisition Act. A Division Bench of this Court in the case of **Tamil Nadu Housing Board vs. Sembanna Gounder & Ors.**, reported in **2006 (4) CTC 803**, had held that the Housing Board, which was the beneficiary cannot challenge the order of



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the learned Single Judge allowing the Writ Petition by quashing the land acquisition proceedings. For better appreciation, the relevant paragraph of the order is extracted hereunder:-

“Appropriate Government” means, in relation to acquisition of land for the purposes of the Union, the Central Government, and, in relation to acquisition of land for any other purposes, the State Government. Under Section 4 of the Land Acquisition Act the “Appropriate Government” - as defined under Section 3(ee) of the Act alone can proceed to initiate the proceedings for acquiring the lands exercising their power of eminent domain. The Housing Board has no interest, what so ever, at any stage of the proceedings initiated under the Land Acquisition Act, in the land intended to be acquired till such time possession of the acquired land is handed over to the Housing Board. Since admittedly in this case the declaration under Section 6 of the Land Acquisition Act had come to be quashed at the instance of the land owners, we have no doubt at all that it is only the Government and the Government alone, being the appropriate Government under the Land Acquisition Act, can challenge the order of the learned Single Judge impugned in the Writ Petition. We are very clear in our mind that the Housing Board cannot challenge the order of the learned Single Judge, having regard to the stage at which the Writ Petition came to be allowed. Accordingly the objection regarding maintainability raised by learned Senior Counsel appearing for respondents 2 to 4 is sustained and the Appeal stands dismissed as not being maintainable at the hands of the Tamil Nadu Housing Board. Since we have dismissed the Writ Appeal only on the



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maintainability issue, we are not expressing any opinion on the other points involved. No costs.”

5. Similarly in an another case of ***Executive Engineer, Tamil Nadu Housing Board vs. R.Parthasarathi & Ors.***, reported in ***(2020) 3 MLJ 769***, a Division Bench of this Court had in a similar line dismissed an appeal filed by the beneficiary as not maintainable and the relevant paragraph is extracted hereunder:-

“when the Government has not chosen to file an appeal, it is not open to the appellant/Housing Board/beneficiary to maintain the appeal as per the judgment reported in “(2006) 4 CTC 803” in the case of “Tamil Nadu Housing Board rep., by its Managing Director vs. Sem-banna Gounder”. Hence, the appeal at the instance of the Tamil Nadu Housing Board is not maintainable”

6.A Division Bench of this Court comprising one of us (KBJ) in W.A.Nos.1254 to 1258 of 2010 had held that the beneficiary had no *locus standi* to maintain the appeal. For better appreciation, the relevant paragraph is extracted hereunder:-

10. In the aforesaid judgment, learned Judges of the Division Bench has categorically held that the Housing Board could not be termed as an aggrieved person as it will not be a person interested before pos-



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session handed over to them. In this case, even though it is claimed that the possession has been handed over to the appellant they have not produced any Panchanama before this Court to substantiate that possession has been taken from the land owners. The Hon'ble Apex Court in a Constitutional Bench Judgment of Indore Development Authority reported in 2020 (8) SCC 129 categorically held that the possession under the Land Acquisition Act can be drawn only by drawing a Panchanama and to prove that the possession has been taken such Panchanama is essential. We do not propose to traverse as to whether the Panchanama has been drawn to find out that the possession has been validly taken or the amount has been deposited into Court which has been disputed by the learned Senior Counsel appearing for the private respondents, because, when the acquisition proceedings have been held to be lapsed statutorily by not passing an Award within the prescribed period, then any proceedings subsequent to the same would be non-est and void ab initio. Hence, the alleged possession and deposit of the compensation amount would be of no consequences as they are all proceedings subsequent to the passing of the Award and hence we hold that the appellant Housing Board has no locus standi to maintain the appeal.

7. In the present case, the land acquisition proceedings was quashed by the learned Single Judge in the year 2000, which had been appealed to by the appellants claiming to be the beneficiaries. The Government had not chosen to file any appeal against the said order. Therefore, applying the aforesaid principles laid down in the judgments extracted



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supra, we are constrained to hold that the Writ Appeal at the instance of the beneficiaries would not be maintainable and would have to be dismissed.

However, considering the fact that the appellants have all been granted patta which of course has been subsequently cancelled, pursuant to the order impugned herein, we grant liberty to the appellants to approach the Government for appropriate remedy. If such a request is made by the appellants, then it is for the first respondent to consider the same on merits and pass orders in accordance with law.

8.In fine, this Writ Appeal is dismissed with the aforesaid liberty. However, there shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

(R.S.K.,J.)

(K.B., J.)

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