



Order dated 09.01.2024
in W.P.No.2422 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.01.2024

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.2422 of 2011
and
W.M.P.Nos.19402 and 19404 of 2021
and
M.P.No.2 of 2011 and M.P.No.1 of 2014

1. Dr.V.S.Velusamy
2. V.S.Arumugam
3. V.S.Marudhachalam
4. Dr.Rajalakshmi
5. Poovalthal

.. Petitioners

Vs.

1. The Government of Tamil Nadu,
Rep. by its Secretary,
Housing & Urban Development Department,
Fort St.George,
Chennai-600 009.
2. The Tahsildar (LA),
Housing Scheme Unit-I, Coimbatore.
3. The Tamil Nadu Housing Board,
Rep. by its Managing Director,
Anna Salai, Nandanam, Chennai-35.
4. The Executive Engineer &
Administrative Officer,

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Tamil Nadu Housing Board,
Coimbatore Unit,
Tatabad, Coimbatore-641 018.

(Respondents 3 and 4 are impleaded as per
order dated 11.06.2015 in M.P.Nos.1, 1 and 1 of 2015
in W.P.Nos.2421, 2422 and 2424 of 2011)

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records in relation to the Notification issued under Section 4(1) of the Land Acquisition Act, 1894, in G.O.Ms.No.862, dated 27.05.1991 (Housing and Urban Development Department) and the declaration made under Section 6 of the Land Acquisition Act in G.O.Ms.No.327, dated 15.06.1992 (Housing and Urban Development Department) by the first respondent under the Land Acquisition Act, 1894 and quash the same in respect of the lands belonging to the petitioners in S.F.Nos.523/1 and 524/1, situated at Vellakinary Village, Coimbatore.

For petitioner : Mr.R.N.Amarnath for Mr.S.Nedunchezian

For respondents:

Mr.P.Kumaresan, Addl. Advocate General, assisted by

Mr.P.Sathish, Addl.G.P. for RR-1 and 2

Mr.V.Gunasekar, Standing Counsel for Tamil Nadu Housing Board for RR-3 and 4

ORDER

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Certiorari to call for the records in relation to the Notification issued under Section 4(1) of the Land Acquisition Act, 1894, in G.O.Ms.No.862, dated 27.05.1991 (Housing and Urban Development Department) and the Declaration

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made under Section 6 of the Land Acquisition Act in G.O.Ms.No.327, dated 15.06.1992 (Housing and Urban Development Department) by the first respondent under the Land Acquisition Act, 1894 and quash the same in respect of the lands belonging to the petitioners in S.F.Nos.523/1 and 524/1, situated at Vellakinaru Village, Coimbatore.

2. Learned Additional Advocate General appearing for the respondents 1 and 2 submitted that already, the father of the writ petitioners, namely Subbanna Gounder, had already challenged the very same impugned Notification by filing a Writ Petition in W.P.No.8118 of 1992 and this Court, by order dated 27.08.1999, dismissed the said Writ Petition. Thereafter, no further challenge was made by the parties and subsequently, the Award has also been passed on 24.08.2001. The petitioners' father also sought enhancement of the compensation awarded and it is stated by the learned Additional Advocate General that he had not pressed the petition for enhancement of compensation.

3. Further, the father of the petitioners, along with three others, had also filed W.P.No.17950 of 2003, seeking to re-convey S.F.No.523/1 and S.F.No.524/1 of Vellaikinaru Village, Coimbatore North Taluk, Coimbatore District and the said W.P.No.17950 of 20023 was dismissed on 24.07.2003 and the Review Application



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filed by the father of the petitioners herein, in Rev.A.No.17 of 2010 seeking to review the order dated 24.07.2003 passed in W.P.No.17950 of 2003, was allowed, and resultantly, W.P.No.17950 of 2003 stood restored. Ultimately on 18.03.2010, this Court dismissed connected writ petition as not pressed, in W.P.No.17951 of 2003 which was filed seeking mandamus simpliciter to direct the third respondent therein to refer the acquisition proceedings under Section 18 of the Land Acquisition Act for enhanced compensation, as the learned counsel for the petitioners therein did not press W.P.No.17951 of 2003, and that the learned counsel for the respondents therein had no objection to the same. Hence, W.P.No.17951 of 2003 was dismissed as not pressed. Further, on restoration of W.P.No.17950 of 2003, this Court, on 29.07.2010, dismissed W.P.No.17950 of 2003 holding that there was no representation on the side of the petitioners and it was also observed by the learned Judge (in W.P.No.17950 of 2003) that when the matter was listed on 27.07.2010, the learned counsel for the petitioners reported "no instructions", as the bundle had been taken away by the petitioners in W.P.No.17950 of 2003 without further instructions and even though the name of the petitioners therein was directed to be printed in the cause list and their names also appeared in the cause-list and even on 29.07.2010 also, there was no representation on the side of the petitioner-M.Subbanna Gounder and three others who filed the said W.P.No.17950 of 2003.

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4. From the above narration of facts, it is clear that, in respect of the very same impugned Notification, the connected writ petition in W.P.No.17950 of 2003 was dismissed and that it is stated by the learned Additional Advocate General appearing for the State that the possession was also taken and since the father of the petitioners, namely the said Subbanna Gounder refused to accept the enhancement of compensation, the same was deposited in Court. Hence, the learned Additional Advocate General submitted that nothing further survives for consideration in the present W.P.No.2422 of 2011, as this is the third round of litigation.

5. Upon hearing both sides and on perusing the records, it is clear that the Notification in G.O.Ms.No.862, Housing and Urban Development Department, dated 27.05.1991, was also published in the Gazette on 12.06.1991. Subsequently, Enquiry under Section 5-A of the Land Acquisition Act, was conducted on 19.09.1991 by the Land Acquisition Officer and the Draft Declaration under Section 6 of the Land Acquisition Act, 1894, was also effected and the same was published in the Tamil Nadu Government Gazette on 18.06.1992. Ultimately, the Award was passed on 23.06.1994 in Award No.5 of 1994.

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6. Therefore, when once the father of the writ petitioners herein, who is the owner of the land(s) in question, had already challenged the land acquisition proceedings, as detailed above, and that he had also lost, it is clear that there was no further challenge and once again, the petitioners herein has filed the present Writ Petition by re-agitating the facts, which is unwarranted. Hence, the petitioners herein will not have any independent right to challenge the very same acquisition proceedings.

7. Further, the various judgments relied on by the learned counsel for the petitioners, are distinguishable on facts and the same are not applicable to the facts of the present case on hand.

8. In the facts and circumstances narrated above, the present Writ Petition is dismissed. There shall be no order as to costs. Consequently, W.M.P.No.19404 of 2021 (dispense with petition to produce the original Award dated 23.06.1994) and M.P.No.1 of 2014 (filed to raise additional grounds) are closed.

9. As far as W.M.P.No.19402 of 2021 in W.P.No.2422 of 2011 is



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concerned, it was filed to amend the prayer as follows:

"In the circumstances, it is prayed that this Hon'ble Court may be pleased to issue of Writ of Certiorari or any other appropriate Writ or Order or Direction, in the nature of writ, call for the records in relation to the notification issued under section 4(1) of the Land Acquisition Act, 1894, in G.O.Ms.No.862, dated 27.05.1991 (Housing & Urban Development Department) and the Declaration made under Section 6 of the land Acquisition Act in G.O.Ms.No.327, dated 15.06.1992 (Housing & Urban Development Department) by the 1st respondent under the Land Acquisition Act, 1894, the award proceedings in Award No.5/94 dated 23.06.1994, relating to S.F.No.524/1 and the award proceedings in Award No.4/2001 dated 24.08.2001 relating to S.F.No.523/1 of the 2nd respondent and to quash the same in respect of the lands belonging to the Petitioners, comprised in S.F.No.523/1 and 524/1 situated at Vellakinaru Village, Coimbatore and to pass such other suitable orders as this Hon'ble Court may deem fit and necessary in the facts and circumstances of the case and thus render justice."



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10. Originally, the Writ Petition in W.P.No.2422 of 2011 was filed challenging the Notification under Section 4(1) and the Declaration made under Section 6 of the Land Acquisition Act. Now, the amendment is made, thereby the Award itself is challenged. Since it is stated that if the original owner, namely the father of the petitioners herein, had challenged the Notification and Declaration, and as of now, the possession had not been taken because of the order of interim stay of this Court made in M.P.No.2 of 2011 in W.P.No.2422 of 2011 passed on 07.02.2011. Now that the acquisition proceedings that are challenged in the connected proceedings, had been confirmed and the possession has also been taken on various dates including the connected lands, which is clear from the possession certificates issued, which has been enclosed in the additional typed set of papers, dated 30.09.2021 filed by the petitioners before this Court on 01.10.2021. Hence, at this juncture, it is not necessary to amend the prayer made earlier in W.P.No.2422 of 2011. Hence, for the foregoing reasonings, the amendment application in W.M.P.No.19402 of 2021 is dismissed.

11. There is no necessity for the petitioner to raise the additional grounds in the Writ Petition, and hence, M.P.No.1 of 2014 shall stand closed.

12. The injunction petition in M.P.No.2 of 2011 and dispense with petition



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in W.M.P.No.19404 of 2021, shall stand closed.

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13. There shall be no order as to costs.

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CS

To

1. The Government of Tamil Nadu,
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2. The Tahsildar (LA), Housing Scheme Unit-I, Coimbatore.
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