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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 15.03.2024	**Pronounced on: 10.04.2024**

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.13896 of 2021
and
W.M.P.Nos.14771 & 14772 of 2021

Madurai Mavatta Panjalai Aadai Matrum
Podhu Tozhilalar Sangam (Regn.No.1561/MDU),
Represented by its General Secretary Muthumani Muthuraja,
8/35A, Nedunchezhian Street,
New Vilangudi, Madurai – 625 018. .. Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by its Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai – 600 009.

2.The Government of Tamilnadu,
Represented by its Chief Secretary,
Fort St. George, Chennai.

3.The Government of Tamil Nadu,
Represented by the Secretary,
Department of Labour and Industries,
(Department of Industries, Labour and Cooperation),
Fort St. George, Chennai.

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4.The Commissioner of Labour,
DMS Campus, Chennai – 600 006.

5.Tamil Nadu Housing Board,
Represented by its Executive Engineer & Administration Officer,
Madurai Housing Unit, Madurai.

6.The Official Liquidator,
Madras High Court,
(Liquidator of Sree Visalakshi Mills),
Corporate Bhavan, Rajaji Salai, Chennai – 600 001.

7.N.Lakshmanan .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records from the 1st respondent relating to proceedings dated 31.01.2017 bearing ref Letter No.26549/SC2(1)/2016-3 and quash the same as illegal, arbitrary, without jurisdiction and to consequently direct the respondents 1 to 5 to register the quarters in the Visalakshi Mill Labour Colony to the occupants of the respective quarters who are members of the petitioner Sangam and details of whom are given in the typed set of papers if necessary by resuming the property in terms of the condition mentioned in Agreement dated 26.12.1956 and 19.03.1957 which was published in the Government Gazette on 10.04.1957.

For Petitioner	:	Mr.N.G.R.Prasad for Row and Reddy
For RR 1 to 4	:	Mr.N.Naveen Kumar Government Advocate

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For R6 : Mrs.B.Ambili
Official Liquidator

For R7 : Mr.Sriram Venkatavaradan

ORDER

The petitioner has filed this Writ Petition to call for the records from the 1st respondent relating to proceedings dated 31.01.2017 bearing ref Letter No.26549/SC2(1)/2016-3 and quash the same as illegal, arbitrary, without jurisdiction and to consequently direct the respondents 1 to 5 to register the quarters in the Visalakshi Mill Labour Colony to the occupants of the respective quarters who are members of the petitioner Sangam and details of whom are given in the typed set of papers if necessary by resuming the property in terms of the condition mentioned in Agreement dated 26.12.1956 and 19.03.1957 which was published in the Government Gazette on 10.04.1957.

2. This Writ Petition has been filed by the petitioner/Union represented by one P.Muthuraja.

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3. In this Writ Petition, the petitioner has challenged the impugned proceedings of the 1st respondent dated 31.01.2017 bearing ref Letter No.26549/SC2(1)/2016-3. Relevant portion of the impugned proceedings of the first respondent dated 31.01.2017 reads as under:-

> *"5. As per the G.O. in the reference first cited, sale deeds shall be issued to the occupier of the houses / tenements only for those houses /tenements which were constructed by the Government through Tamil Nadu Housing Board under Public Sector through assistance from the Central Government and which no. only 4117 and do not include the staff quarters of Shri Visalakshi Mills Limited.*
>
> *6. In the circumstances stated above, as the land for construction of 72 staff quarters for Shri Visalakshi Mills Limited, Madurai and the vacant land was acquired by the Government on behalf of the Mill and the Mill has paid the entire cost of land acquisition to the Government and the houses were also constructed under Private Sector component of the Government of India Scheme of Subsidised Industrial Housing Scheme for Industrial Workers and Economically Weaker Sections wherein the Mill obtained only the subsidy from Government of India and the rest of the amount towards construction of Staff Quarters was mobilized through loan and repaid by the Mill your request cannot be considered as the Mill Management has full right over the land and the construction"*

4. Mr.R.Venkatavaradan, learned counsel for the seventh respondent has made elaborate submissions.

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5. The learned counsel for the seventh respondent has filed Written Submission. He submits that the writ petition is misconceived and is hopelessly barred and therefore the writ petition is liable to be dismissed on account of latches.

6. It is further submitted that the impugned Order was passed as early as 31.01.2017 pursuant to Order passed by the Madurai Bench of Madras High Court in W.P.(MD).No.9613 of 2009. It is submitted that the present Writ Petition has been filed in the year 2021. As such, the Writ Petition is liable to be dismissed.

7. It is further submitted that once the Company has ceased to operate, the employees also cease to be the workers of the Company and therefore they cannot squat over the properties of the Company in respect of which no rents were also paid. Only after attempts were made by the Office of the Official Liquidator to vacate the occupants, W.P.(MD).No.9613 of 2009 was filed before the Madurai Bench of Madras High Court.

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8. The learned counsel has drawn attention to the decision of the Bombay High Court in **Gomantak Mazdoor Sangh** Vs. **Mormugao Port Trust and others**, (2006) 3 AIR Bom R 503 (DB).

9. Specifically a reference was made to Paragraphs 12 and 15 from the said decision, which is reproduced below:-

> ***"12. In (Government Press Employees' Association, Bangalore Vs. Government of Mysore), reported in A.I.R.1962 Mysore 25, 1961 (11) L.L.J.583, the Government Employees' Association had sought to challenge promotion granted to certain Government Employees while seeking direction to consider the claim of its members to those promotional posts. While dealing with the issue whether such a petition is maintainable or not, it was held by the Division Bench of Mysore High Court that it was not a matter wherein Court was dealing with any industrial dispute property raised or properly referred for adjudication to a competent tribunal in accordance with the relevant provisions of law, in or to which the Government Press Employees Association could be said to be a party and that:***
>
> > ***"..... the grievances which are the subject-matter of the proposed writ petition are clearly those of certain individual and not of the association as a corporate body, even though the aggrieved persons might be its members in whom the association might be vitally interested."***
>
> ***13. .....***

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14. .....

15. Again, in (Hatti Goldmines Officers' Association Vs. Hatti Gold Mines Company Ltd.), reported in 2001 Lab.I.C.3787, the learned Single Judge of Karnataka High Court while dealing with the similar issue held that a petitioner Trade Union cannot maintain petition on behalf of its members on the premise that their fundamental rights or other legal rights have been infringed by an action on the part of their employer-company, though such grievance can be sought to be redressed by means of negotiations or as an industrial dispute as provided under relevant statutory provisions but not by way of representative writ petition by the trade union. It was ruled that it is always open to the affected individual employees to maintain a writ petition by themselves if they complain of violation of any of their fundamental or any other legal rights which can be examined in the exercise of writ jurisdiction by the High Court."

10. The dispute in this Writ Petition pertains to the land that was allotted to Sree Visalakshi Mills Limited, Vilangudi, Madurai, which has been ordered to wound up by this Court in C.P.No.78 of 2008 on 24.06.2008.

11. By this impugned order, the 1st respondent has disposed of the representation of P.Muthuraja, the General Secretary of Madurai Puranagar Mavatta Panchalai Thozhilalargal Sangam pursuant to a direction of the Madurai Bench of this Court in W.P.(MD).No.9613 of 2009.

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12. Though the impugned order was passed on 31.01.2017, the present Writ Petition was filed only 01.07.2021 by the petitioner herein namely Madurai Mavatta Panjalai Aadai Matrum Podhu Tozhilalar Sangam (Regn.No.1561/MDU), deponent as one Muthumani Muthuraja, who is the son of P.Muthuraja, who had filed W.P.(MD).No.9613 of 2008 on behalf of the Madurai Puranagar Mavatta Panchalai Thozhilalargal Sangam on a specific query as to whether P.Muthuraja was an employee of the Company under liquidation namely Sree Visalakshi Mills Limited. It was informed that he was formerly an employee of the Company.

13. Today another case was listed as Item No.36 in C.P.No.132 of 2008 at 12.30 PM. In the said proceedings also the said P.Muthuraja had filed C.A.No.1111 of 2014 in C.P.No.132 of 2008 claiming to be the General Secretary of M/s.Sheelarani Textiles Limited, the Company under liquidation in C.P.No.132 of 2008.

14. *Prima facie*, the present Writ Petition filed by the deponent, a youngster aged about 26 years in respect of a Company which was ordered to be wound up in the year 2008 in the present proceedings in the capacity of a General Secretary of the petitioner Sangam appears to be not *bona fide*.

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15. It appears that the said P.Muthuraja, the General Secretary of Madurai Puranagar Mavatta Panchalai Thozhilalargal Sangam died on 27.12.2020. It is not clear how the post of a Secretary of a trade union can have hereditary succession unless it is a paper trade union. That apart, it is also not clear how P.Muthuraja's son namely Muthumani Muthuraja became the Secretary of the Sangam.

16. Be that as it may, the challenge to the impugned order in the year 2021 is long after the disposal of the representation on 31.01.2017. There is a latches. That apart, there is no merits in the challenge to the impugned order. The admitted facts of the case is that the land in question measuring about 20 acres (19.79 acres) in Madurai Town, Vilangudi Village, Visalakshi Nagar in various Survey Numbers was acquired by the Government of Tamil Nadu under the provisions of The Land Acquisition Act, 1894 (Central Act of 1894) on behalf of the said Company in C.P.No.78 of 2008.

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17. The land was acquired for public purpose *albeit* for construction of dwelling units for the workers as is evident from the preamble to G.O.Ms.No.1085, Industries, Labour and Co-operation, dated 25.03.1957.

18. The G.O.Ms.No.1085, Industries, Labour and Co-operation, dated 25.03.1957 itself makes it clear that the Company shall pay the cost of the land to the Government before the said land is transferred by the Government, the cost of the land as settled by the Collector.

19. The allotment of the land is conditional in terms of para.no.3 of the aforesaid Government Order, which reads as under:-

> *"3.The terms up to which the said land shall be held by the company are-*
>
> *(a) that the land shall be used for the provision of quarters of staff and workmen of Sree Visalakshi Mills Limited, Vilangudi, Madurai;*
>
> *(b) that the company shall pay to the Government of Madras annually the appropriate assessment or ground rent as the case may be, on the land which shall be liable to revision at any general revision of the land revenue settlement;*
>
> *(c) that the lands acquired should be used only for the building of a labour colony and that dwellings when built will be leased to the workers of the company at reasonable rates of rent;*

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(d) that in the event of the company being wound up or in the event of failure on the part of the company to carry out the terms of the agreement that is to say, conditions (a) to (c) above, <u>the lands shall be liable to be resumed and taken back by the Government on repayment to the company of the amount of the award as finally settled less the 15 per cent awarded for compulsory requisition or the estimated market value of the land at the time of resumption whichever is les and if there are any buildings on on the land the said Government may at their option either purchase the buildings on payment of their estimated value at the time or direct the company to remove the buildings at its own cost, within such time as may be allowed by the Government</u>; and

(e) that in the event of the voluntary relinquishment of the land by the company as not required for the purpose for which it was acquired, the Government may resume the land if it is required for a public purpose or if they consider that it should be returned to the original owner, if the Government decide not to exercise this power and inform the company accordingly, the latter may dispose of the land in any manner it likes. In the event of the resumption of the land under this condition, the compensation payable to the company shall be the value of the land at the time of acquisition less the 15 per cent awarded for compulsory acquisition, or its estimated market value at the time of resumption, whichever is less, together with the value of the buildings and other

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> *improvements at the time of resumption. If there are buildings on the land which the Government do not require, the company shall remove them at its cost."*

20. On the land acquired by the Government of Tamil Nadu under the provisions of The Land Acquisition Act, 1894, the company had also put up construction under Subsidised Industrial Housing Scheme. The records also indicate that the Commissioner of Labour, Teynampet, Madras in his communication to the first respondent dated 12.05.1986 bearing No.F.1.42424/86 has informed that under the Public Sector and Private Sector, colonies were constructed for allotments to the Industrial workers covered under Section 2(1) of the Factories Act, 1948, at subsidised rates of interest.

21. The aforesaid communication indicate that houses were constructed by the Tamil Nadu Housing Board after obtaining project sanction from the Government in Housing Urban Development and about 72 houses were constructed. Relevant portion of the communication reads as under:-

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<u>Houses constructed by the T.N.H.Board after obtaining project sanction from the Government in Housing & Urban De</u>

1. Industrial Housing colony, Pasumalai Phase II	240	Sanctioned in G.O.Ms. 1580 dated 17.8.79, G.O.Ms.No.327 dated 13.4.82
2. Industrial Housing colony, Rajapalayam	312	G.O.Ms.No.1581 dated 17.8.79
3. Industrial Housing colony, Hosur	84	G.O.Ms.No.445 dated 6.5.1985
	636	

In all these three cases rate of interest has not been specified in the Government orders.

PRIVATE SECTOR

1. Sree Meenakshi Mills Ltd. Paravai	50	5 %
2. " " "	60	5 %
3. Sri Tiagarajar Mills Ltd. Kappalur	56	5 %
4. Thiakesar Alai Manapparai	56	5 %
5. Sree Visalakshi Mills Ltd. Vilangudi	72	4 ½ % for Rs.11 7 ½ % for Rs.24
6. Dalmiya Cement (Bharat) Ltd. Dalmiapuram	96	8 ½ %
7. Chemplast, Mettur Dam	60	8 ½ %
	450	

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Sl.No.	Name of colony	No.of houses	Interest rate
8.	South India Steels and sugars ltd. Mundiambakkam	10	7 ½ %
9.	Salem Co-operative Sugar Mills Mohanur	148	7 & ½ %
10.	The Dharmapuri Dist.Co-op.Sugar Mills, Palacode	100	8 ½ %
11.	Ambur Co-op.Sugar Mills, Vadapudupet	48	8 ½ %
12.	TamilNadu Cement corporation, Alangulam works	42	8 ½ %
13.	Sri Ramalinga Mills Ltd. Aruppukottai	120	8 ½ %
14.	National co-op.sugar Mills. Mettupatti, Madurai district	60	8 ½ %
15.	Madurantakam co-op.sugar Mills Padalam	104	8 ½ %

In the following cases, the properties have been either reconveyed to the concerned managements or yet to be reconveyed.

1.	Sree Meenakshi Mills Ltd. Madurai	160 houses	The entire loan has been repaid and the Agreement period is also over. Reconveyance of the properties was permitted by the G.O.I. The reconveyance deed has also been registered & the G.O.I. informed of the fact
2.	Sundaram Textiles Nanguneri	12	The management have repaid the entire financial assistance (loan and subsidy) The reconveyance has been permitted by the State Government recently and the properties have been reconveyed and the Government informed of the [illegible] agreement.
3.	Sakthi Sugars ltd. Appakudal	120	The management have fully repaid the loan and subsidy The reconveyance has been permitted by the Government recently and the properties are yet to be reconveyed.

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Sl.No.	Name of colony	No. of houses	
4	Mettur Chemical Industrial coorporation Mettur Dam	40	The entire loan receive[d] by the management was paid and the propertie[s] were reconveyed
5.	Thiakesar Alai Manapparai	48	Reconveyance of proper[ty] has been permitted by [the] G.O.I. Reconveyance de[ed] duly executed on behal[f of] the management has bee[n] submitted to G.O.I. t[o be] executed by the Governm[ent]. The deed is awaited fr[om] G.O.I.

With regard to para 2 of Government letter (3)cit[ed] I wish to inform that a new Head of account may be opened for this purpose and the Government in Finance Department may kin[dly] be consulted.

for Commissioner of Labour
13/5

13/5/86.

22. By G.O.(Ms).No.971, Housing and Urban Development Department, dated 15.07.1987, the Government of Tamil Nadu Housing and Urban Development Department stated as follows:-

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5. However, a number of representations were received from the various Industrial workers' Association for reconsideration of the above decision and requested the Government to implement the orders of the Government of India. The Government reviewed their earlier decision and have decided to sell the houses constructed under the scheme under Public Sector to the occupants themselves, in conformity with the decision of Government of India. The Government pass the following orders:-

i) The houses numbering about 4,117 built under the Subsidised Industrial Housing Scheme and Economically Weaker Sections of the Community under Public Sector, be sold to the original bonafide allottees of the industrial workers/ occupants of the tenements subject to the conditions specified in para 2 above; and

ii) The houses built under the above said scheme should not be sold to unauthorised occupants, sub-let by the bonafide allottees and encroachers.

6. The sale proceeds of the houses referred to in para 2(g) shall be credited to the Government account i.e. ..... as the case may be, in conformity with decision

will beissued separately by Government in Finance Department opening a new head of account, for remitting the amount due to the State /Central Government.

7. The Commissioner of Labour is requested to furnish the particulars to the Ministry of Works and Housing and to the Principal Accounts Officer, Ministry of Works and Housing, New Delhi in regard to the sale of the houses constructed under the Integrated Subsidised Housing Scheme for Industrial Workers and Economically Weaker Sections of the Community, under intimation to Government of Tamil Nadu.

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23. By yet another Government Order in G.O.Ms.No.691, Housing and Urban Development (SC2(2)) Department dated 10.08.1993, it was clarified in respect of the Subsidised Industrial Housing Scheme for industrial workers and Economically Weaker Sections of the community are implemented under public sector and private sector. The houses built for industrial workers under the Subsidised Industrial Housing Scheme both in the public as well as in the private sector were to be retained for allotment to eligible workers on rental basis only.

24. Ultimately it was clarified as under:-

5. In supersession of the orders issued in the Government Orders first to four read above, Government now issue the following revised orders for transfer of ownership of houses/tenements constructed under Subsidised Industrial Housing Scheme to the Industrial workers.

i. The houses numbering about 4,117 built under the Subsidised Industrial Housing Scheme and Economically Weaker Sections of the community under Public Sector, be sold to the industrial worker occupants of the tenements subject to the conditions specified in Annexure-I,

ii. The houses built under the above said scheme should not be sold to unauthorised occupants, sub-let by the bonafide allottees and encroachers,

iii. The occupancy as on date of the house/tenements allotted under Subsidised Industrial Housing Scheme should be the main criteria for the transfer of ownership,

iv. The industrial workers, whose income has crossed the eligible limit of income, for allotment of houses under the scheme, may be made eligible for sale of the house under the scheme.

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v. The legal heirs of the retired/deceased industrial workers, may be made eligible for sale of the houses under the scheme, subject to the condition that they are industrial workers covered by Factories Act, 1948.

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vi. The industrial workers who have been allotted houses on rental basis under the scheme when working in one industry, and who have left the above industry and are employed as industrial workers in any other industry, may be considered for sale of the houses under the scheme,

vii. In order to regularise the occupancy of the persons who are not eligible under the rules mentioned above, the Government direct that persons who are employed in the organised/unorganised industrial units/self employment schemes be also eligible for the sale of houses. However, persons belonging to higher income group excluding those employed in Factories/Industries will continue to be INELIGIBLE.

viii. For the sale of houses to the eligible persons, the norms prescribed in para.5(i) should be followed. For the sale of houses for whom it has been proposed to regularise their occupancy the following norms should be adopted.

For those who belong to Economically Weaker Sections and whose income is below Rs.1500/- as mentioned in para 1 above, the sale price will be historical cost of construction of the houses minus depreciation at 2% per annum x 2 times sale price = 2 x (Historical cost of construction minus depreciation at 2% per annum) and for those whose monthly income is in the range of Rs.1500/- to Rs.2500/- the norms to be adopted will be current replacement cost minus depreciation at 2% per annum. While calculating the cost of the houses/flats the cost of the land should also be taken into account.

The payment of the cost of the houses by the ineligible persons shall be 30% of the cost in one lumpsum which is to be paid by the purchaser at the time of allotment and the remaining amount shall be paid in monthly instalments over a period of ten years with 12% interest. The standard pattern adopted by the Housing Board for the recovery of the amount with interest shall be followed.

ix. The ~~xxx~~ land on which the individual houses have been built under Subsidised Industrial Housing Scheme be sold on free hold basis and the land value will be Rs.500/- per sq.m. as agreed to by Finance department.

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x. Sale deed should be issued by the SIDCO in respect of the tenements/houses maintained by them and by the Tamil Nadu Housing Board in respect of the tenements/houses maintained by them, after allotment is made on due identification,

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xi. No exemption will be given from the payment of stamp duty for the registration of sale deed.

xii. No damage charges will be levied as allotment of tenements/houses will be from the date of occupancy,

xiii. The land on which the buildings have been constructed shall be transferred to the registered association of the occupants and ownership shall not be transferred to the individual allottees. For this purpose, the allottees shall form an association in their respective scheme areas and shall become members thereof. These Associations shall be registered under the Societies Registration Act 1975 as per the existing Acts and Rules in force.

xiv. The beneficiary/allottee who are in organised scheme shall obtain the income certificate from the employer. Those who are in unorganised sector shall obtain the income certificate from the Tahsildar.

xv. After allotments are made, open space such as road etc. shall be handed over to the respective Local bodies by the SIDCO and Tamil Nadu Housing Board as the case may be for maintenance.

xvi. Allotment shall be made on payment of current market value in respect of the occupants who are in higher income group since eviction will be difficult.

xvii. The persons whose income exceeds Rs.2500/-comes under the category of Higher Income Group.

25. The Madurai Mavatta Madurai Vadakku Vattam Register maintained at the SRO also indicate that the land acquired for housing purpose has been treated as housing colony and the land of the company for

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other purpose has been treated as land of the company in the name of Sree Visalakshi Mills Limited, C.Narayanan Chettiar.

26. In my view, the workers have no right over the land that was acquired by the Government of Tamil Nadu and transferred to the company in terms of G.O.Ms.No.1085, Industries, Labour and Co-opeartion, dated 25.03.1957. The counter of the first respondent also confirms that the Government has paid the necessary amount towards the land as settled by the Collector under the provisions of the Land Acquisition Act, 1894.

27. Para No.1 after the preamble to the Notification is extracted as under:-

> *"1.The Company shall pay to the Government before the said land is transferred to the Company, the cost of the land as settled by the Collector, or if reference is made to the Court, by the final Court of appeal and all costs of acquisition inclusive of all payments and allowance in respect thereof payable under the said At and all Court costs and pleader's fees, etc., incurred by the Government in defending the reference, if any, made to the Court as aforesaid and on appeal or appeals filed in connection therewith and all costs, pleader's fees, etc., payable or paid by the Government to the claimant in the said matters.*
>
> *The Government shall not be bound to give possession of the land until all the said moneys have been paid to them by the Company and may withdraw*

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> *from the acquisition of the land and in case of withdrawal, the Company shall be liable to indemnify the Government against all expenses incurred and damage sustained as the result of any thing done by them in the matter of acquisition of the land till the date of withdrawal."*

28. Thus, the rights of the workers to occupy the houses which were given to them while so the Company was a going concerned cannot be countenanced with at this stage. The workers also cannot claim over the ownership of the property merely because the Company was ordered to be wound up. The winding up of the Company entitled the Government to resume the land on payment of the award amount settled less 15% awarded for compulsory acquisition from the market value of the land at the time of resumption, which ever is less as is evident from clause 3(d) of G.O.Ms.No.1085, Industries, Labour and Co-opeartion, dated 25.03.1957, context of which has been extracted in the beginning of the discussion. Government is directed to resume the land, if the amounts have not been paid earlier or in the alternative recover the amounts from the Official Liquidator Office.

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29. Therefore, there is absolutely no merits in this Writ Petition. In any event, the Writ Petition is also not *bona fide* as it has been filed long after the impugned order was passed by the first respondent.

30. Accordingly, this Writ Petition stands dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

10.04.2024

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

krk/arb

To
1.The Secretary,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George, Chennai – 600 009.

2.The Chief Secretary,
Government of Tamilnadu,
Fort St. George, Chennai.

3.The Secretary,
Government of Tamil Nadu,
Department of Labour and Industries,
(Department of Industries, Labour and Cooperation),
Fort St. George, Chennai.

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4.The Commissioner of Labour,
DMS Campus, Chennai – 600 006.

5.The Executive Engineer & Administration Officer,
Tamil Nadu Housing Board,
Madurai Housing Unit, Madurai.

6.The Official Liquidator,
Madras High Court,
(Liquidator of Sree Visalakshi Mills),
Corporate Bhavan, Rajaji Salai, Chennai – 600 001.

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