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W.P.No.14186 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2024

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and**

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.14186 of 2018

and

W.M.P.Nos.38048 and 38049 of 2018 and 6888 and 6889 of 2020

Raja Pillai Thottam Naagar Sakthi

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Secretariat,
Chennai – 600 009.
2. The Managing Director,
Tamil Nadu Slum Clearance Board,
Kamarajar Salai, Chepauk, Chennai -5.
3. The Chairman,
Tamil Nadu Housing Board (TNHB),
493, Anna Salai, Nandanam,
Chennai – 35.
4. The District Collector,
Chennai District,
Rajaji Salai, Chennai.
5. The Special Deputy Collector for Land Acquisition,



State Housing Board Scheme,
Chennai – 1.

6. The Tahsildar,
Taluk Office,
Guindy, Chennai.

7. The Commissioner of Police,
Commissionerate,
Vepery, Chennai.

8. V.R.Venkatachallam

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents No.1 to 7 to conduct the proper enquiry in T.S.No.5260/1 and an extent of 0.03.04.2125 Sq fts situated at (Old Puliyur Village), Raju Pillai Thottam T.Nagar, Mambalam Taluk (Now Guindy Taluk), Chennai-17 and to remove the encroachment created by the 8th respondent and consequently direct the 1st and 2nd respondents to declare the above said areas as "Slum Clearance Area" and to do the improvement work contemplated under Section 11 of the Tamil Nadu Slum Areas (Improvement & Clearance) Act, 1971 or to regularize and to make an arrangement for issuing patta to the residents.

For Petitioner : Mr.P.Vijendran

For R1, R4 to R7 : Mr.A.Selvendran,



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Special Government Pleader

For R2

: Mrs.G.Thilagavathi,
Senior Counsel
for Mrs.K.Indumathy Venkatesh,
Standing Counsel for TNUHDB

For R3

: Mr.A.M.Ravindranath Jayapal,
Standing Counsel for TNHB

For R8

: Mr.N.L.Rajah, Senior Counsel
and Mr.P.V.Balasubramaniam,
Senior Counsel
for Mr.D.Fanny Rajan
for Mr.BFS Legal

ORDER

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

The Writ of Mandamus has been instituted to direct the respondents 1 to 7 to conduct the proper enquiry in T.S.No.5260/1 and an extent of 0.03.04.2125 Sq.ft. situated at (Old Puliur Village), Raju Pillai Thottam T.Nagar, Mambalam Taluk (Now Guindy Taluk), Chennai-17 and to remove the encroachment created by the 8th respondent and consequently direct the 1st and 2nd respondents to declare the above said areas as "Slum Clearance Area" and to do the improvement work contemplated under Section 11 of the Tamil Nadu Slum Areas (Improvement & Clearance) Act, 1971 or to regularize and to make an arrangement for issuing patta to the



residents. The subject property has been named as “Raja Pillai Thottam”, situated at T.Nagar, Mambalam Taluk (now Guindy Taluk), Chennai – 17, heart of Chennai city.

2. It is not in dispute between the parties that the subject property had been acquired by the Government by invoking the provisions of the Land Acquisition Act, 1894. Award was passed on 21.11.1966. After declaring the area for the improvement of the slum, known as “Raja Pillai Thottam”. Therefore, on acquisition, the Government proposed to hand over to the Slum Clearance Board for development. The note explaining the Award No.28 of 1966 dated 21.11.1966 issued by the Land Acquisition Officer would reveal that the subject property has been acquired for the purpose of developing the slum area under the Madras Slum Improvement (Acquisition of Land) Act, 1954. Thus, the Slum Clearance Board was the requisitioning body and the Government, on acquisition, proposed to hand over the property for the development of slum in that area. However, the Government has not developed the slum area, but the award passed under the Land Acquisition Act, 1894 become final. Once, the award became



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final, the land absolutely vest with the Government. Admittedly, the land was not re-conveyed at the any point of time in favour of the erstwhile land owners.

3. The 8th respondent purchased the subject property through different sale deeds from the year 1993 onwards. During the relevant point of time, the subject property vest with the Government. Therefore, the sale deeds executed in favour of the 8th respondent in the year 1993 are *void ab initio*. Based on void sale deeds executed, the 8th respondent cannot claim any property right.

4. However, the learned Senior Counsel, Mr.N.L.Rajah, appearing on behalf of the 8th respondent would contend that the land acquisition itself became lapsed on account of the reason that the land acquired was not utilized for slum development and it is under encroachment. The 8th respondent purchased the subject property from the year 1993 onwards and sale deeds were executed and consequently, patta were granted in the



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name of the 8th respondent. Therefore, they became the absolute owner of the property. The learned Senior Counsel Mr.N.L.Rajah would draw the attention of this Court with reference to the letter issued by the District Collector, Madras dated 02.08.1989. The said letter of the District Collector, Madras would indicate that the land acquisition has become void as the High Court has struck down the MSI Act, 1954 under which the land was acquired. Relying on the said letter, the learned Senior Counsel, Mr.N.L.Rajah contended that the acquisition became null and void and the District Collector, Madras has also communicated the same for the purpose of refund of the compensation amount deposited and consequently, the purchase of the subject property by the 8th respondent is a valid purchase.

5. Mr.N.L.Rajah relied on the judgement referred in the letter issued by the District Collector, Madras in the case of V.Poonusamy and others -vs- the Government of Tamil Nadu in W.P.Nos.1485, 1501, 1504 of 1989 and 683 of 1983 dated 25.03.1983. In the batch of Writ Petitions, the validity of the Tamil Nadu Slum areas (Improvement and Clearance Act, 1971) (Tamil Nadu Act 11 of 1971) was challenged. The Hon'ble Division Bench of this Court held that Chapter VI was unconstitutional and struck



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down Chapter VI of the said Act. Relying on the said judgement, the learned Senior Counsel, Mr.N.L.Rajah would state that the land acquisition since declared as void, which was reiterated by the District Collector, Madras in his letter dated 02.08.1989, the purchase of the subject property by the 8th respondent is valid and consequently, all further proceedings initiated will not affect the right of property of the 8th respondent. The 8th respondent has already filed several Suits for evicting the encroachers and decrees are passed by the Competent Court. However, the decrees are not executed on account of certain practical difficulties.

6. The learned Senior Counsel, Smt.Thilgavathi, appearing on behalf of the 2nd respondent / Tamil Nadu Slum Clearance Board would oppose the contentions of the writ petitioner by stating that the land was admittedly acquired under the provisions of the Land Acquisition Act, 1894. The purpose of acquisition was to develop the slum area by the Government in that locality. The Government itself has decided to develop the slum area. Tamil Nadu Slum Clearance Board was not in existence during the relevant point of time. The Tamil Nadu Slum Clearance Board was constituted in the year 1971. Now the Tamil Nadu Slum Clearance Board (Urban Habitat



Development Board) is ready and willing to develop the slum area, provided the Government hand over the land to them for the purpose for which it was originally acquired under the Land Acquisition Act, 1894.

7. The learned Special Government Pleader, Mr.Selvendran appearing on behalf of the respondents 1, 4 and 7 would oppose the contention of the 8th respondent by stating that the land was acquired by the Government and the compensation was deposited in the Court concerned. Once the award is passed, the Government became the absolute owner of the property. The Government thought fit to develop the slum area in that locality. On account of various reasons and due to encroachments, the area was not developed. However, even now the land vest with the Government and the purchase of the subject property by the 8th respondent in the year 1993 is null and void. Acquired land cannot be purchased. Thus, the Government is empowered to deal with the properties in the manner known to law.

8. Mr.P.Vijendran, learned counsel for the writ petitioner would submit that poor homeless people have constructed houses and residing there. They are in occupation for several years. Admittedly, the



8th respondent is not in possession of the subject property. Thus, the right of the slum dwellers in that area are to be protected.

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9. We have considered the submissions made on behalf of the writ petitioner and the respondents.

10. The award passed by the Land Acquisition Officer dated 21.11.1966 under Section 11 of the Land Acquisition Act, 1894 would unambiguously indicate that the acquisition was made by the Government for the improvement of the slum, known as “Raja Pillai Thottam”.

11. Section 12 of the Land Acquisition Act, 1894 denotes that the award of the District Collector became final. Based on the award, the compensation has been deposited by the Government before the competent City Civil Court at Chennai. Therefore, the Government became the absolute owner of the subject property. The slum area has not been developed by the Government, but it would not result in denial of ownership



in favour of the Government. Admittedly, the 8th respondent purchased the subject property in the year 1993 through various sale deeds from the erstwhile owners of the property, which were acquired by the Government. Such sale deeds executed between the erstwhile owners and the 8th respondent after acquisition are not binding on the Government. Sale Deeds executed in respect of the acquired lands become null and void. Thus, the claim of the 8th respondent is illegal.

12. The factual basis, as established through the documents made available are crystal clear. The subject property has been acquired under the Land Acquisition Act, 1894. The Government intended to develop the slum area. However, on account of certain encroachments, the developments did not occur. The 8th respondent purchased the subject property in the year 1993 through various sale deeds. The execution of sale deed in respect of the Government land is null and void.

13. As far as the relief sought for in the present Writ Petition is concerned, the encroachments in the Government land cannot be approved



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by this Court. The Government is empowered to evict the encroachers by invoking the provisions of the Land Encroachment Act, 1905 and utilize the land either for developing slum area by handing over the property to the appropriate authorities or utilize the lands for public purposes. Since the land vest with the Government as of now, they are empowered to take a decision in the public interest. In the event of evicting the encroachers from the Government lands, those landless poor people may be provided with an alternate tenement through the Tamil Nadu Urban Habitat Development Board by ascertaining the eligibility. The list of eligible persons are to be prepared and based on their eligibility and in consonance with the terms and conditions, allotment of tenement in any available projects are to be granted to the landless poor people, who all are encroachers in the subject property. With reference to the letter of the Collector of Madras dated 02.08.1989, it seems to be doubtful since the letter is not consonance with the facts, as established through the documents and evidences. The land acquisition was not referred in the letter. Award passed has also not been referred. The letter conveys that the acquisition has become void. The applicability of the High Court Judgment dated 25.03.1983 has not been discussed in the letter. The Judgement has no relevance, as far as the original land acquisition and the



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award passed by the Land Acquisition Officer under the Land Acquisition Act, 1894. With reference to the Madras Slum Improvement Act, 1954, it has application since the land was originally acquired by the Government for developing slum area by the Government and not through the Slum Clearance Board. As on the date of acquisition of the subject property, the Slum Clearance Board was not in existence. Thus, the letter of the District Collector relied on by the 8th respondent is of no avail to them to establish that the land acquisition become null and void. Admittedly, the acquired land has not been reconveyed to the erstwhile owners. That being so, the acquisition became final pursuant to the award passed under the Act and the compensation was deposited in the City Civil Court, Chennai and therefore, the subject property absolutely vest with the Government.

14. In view of the above facts, following orders are passed:

(i) the respondents 1, 4, 5 and 6 are directed to resume the Government land with the assistance of the 7th respondent by evicting the encroachers by following the procedures, as contemplated under the Tamil Nadu Land Encroachments Act, 1905;

(ii) the respondents 1, 4 and 6 are directed to prepare the list of



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eligible persons for providing alternate tenement through 2nd respondent and on furnishing the list of eligible persons, the 2nd respondent is directed to allot alternate tenement to the landless poor people based on their eligibility and in compliance with the terms and conditions; and

(iii) the 1st respondent shall take a decision to utilize the land for public purposes in the manner known to law.

(iv) The said exercise is directed to be completed within a period of four months from the date of receipt of a copy of this order.



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15. Accordingly, the Writ Petition stands disposed of. Consequently, the connected Miscellaneous Petitions are closed. No costs.

(S.M.S.,J.) (K.R.S.,J.)
28.02.2024

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1. The Secretary Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George, Secretariat, Chennai – 600 009.
2. The Managing Director,
Tamil Nadu Slum Clearance Board,
Kamarajar Salai, Chepauk, Chennai -5.
3. The Chairman, Tamil Nadu Housing Board (TNHB),
493, Anna Salai, Nandanam,
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4. The District Collector, Chennai District,
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Guindy, Chennai.

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S.M.SUBRAMANIAM, J.
and
K.RAJASEKAR, J.

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7. The Commissioner of Police,
Commissionerate, Vepery, Chennai.

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