



Order dated 22.02.2024
in W.P.No.5043 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22.02.2024

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.5043 of 2016

--

R.Sivakumar

.. Petitioner

Vs.

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

2. The Managing Director,
Tamil Nadu Housing Board,
Anna Salai, Nandanam, Chennai-600 035.

3. The Administrative Officer/Executive Engineer,
Tamil Nadu Housing Board,
Ayyanthirumaligai Road,
Asthampatti,
Salem-8.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the entire records relating to the impugned under Section 4(1) Notification in G.O.Ms.No.525, Housing and Urban Development Department, dated 26.05.1985 and subsequently issued Notification under Section 6 Declaration of Land Acquisition Act in G.O.Ms.No.1408, Housing and Urban Development Department, dated 03.09.1986 issued by the first respondent and quash the same, since as per under Section 24(2) of the Right to Fair Compensation and Transparency in Land

Page No.1/7



Order dated 22.02.2024
in W.P.No.5043 of 2016

Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013), the entire acquisition proceedings become lapsed.

For petitioner : Mr.C.Prakasam

For respondents: Mr.S.J.Mohamed Sathik, Govt. Advocate for R-1

Mr.C.Kalai Chelvan, Standing Counsel for TNHB for RR-2 & 3

ORDER

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Certiorari to call for the entire records relating to the Notification issued under Section 4(1) of the Land Acquisition Act, in G.O.Ms.No.525, Housing and Urban Development Department, dated 26.05.1985 and subsequently issued Notification/Declaration issued under Section 6 of the Land Acquisition Act in G.O.Ms.No.1408, Housing and Urban Development Department, dated 03.09.1986 by the first respondent and quash the same, since as per under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013), the entire acquisition proceedings become lapsed.

2. Learned counsel for the petitioner submitted that the petitioner is in possession of the property in question and the compensation amount was not

Page No.2/7



Order dated 22.02.2024
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paid to him till the New Act, i.e. the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013), came into force on 01.01.2014, and therefore, the acquisition itself stands lapsed under Section 24(2) of the New Act. Neither the acquisition body has taken possession, nor the amount of compensation was paid to the land owner.

3. The learned Standing Counsel appearing for the respondents 2 and 3/Tamil Nadu Housing Board, by relying upon the counter affidavit filed by the third respondent, submitted that the land in question was acquired from the original owners, one A.Rama and Ireesayee. The Notification under Section 4(1) was issued and the Declaration under Section 6 was also made and they were also published in the Gazette. Subsequently, Award enquiry was conducted and the original owners participated in the Award enquiry and subsequently, they were asked to produce the original document. Thereafter, the original owners never turned up and therefore, the compensation amount was deposited before the Civil Court. After acquisition of the land, the original land owners were alleged to have sold the property to the petitioner and the petitioner is only the subsequent purchaser after the acquisition of the land by the authorities. Therefore, the original land owners had no right and title, since the right and



Order dated 22.02.2024
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title already vested with the Government. Hence, the original land owners have no right to transfer the interest of the land to the present petitioner and he has no locus-standi to question the acquisition under Section 24(2) of the New Act on the ground that neither the possession is taken over, nor the amount of compensation was deposited, and therefore, lapse under Section 24(2) of the new Act is not available to the petitioner.

4. Heard both sides and perused the materials available on record.

5. Admittedly, the land in question was acquired and the Notification under Section 4(1) of the old Act was issued on 26.05.1985 itself. Subsequently, the Declaration under Section 6 of the old Act was also made on 03.09.1986. Thereafter, the Award enquiry was also conducted and Award was also passed on 31.08.1988. In all the above stages/proceedings, the original owners -- A.Rama and Ireesayee were shown as owners of the subject property(ies) and as per the Records of the Tamil Nadu Housing Board, the original owners participated in the Award enquiry, but it seems that the petitioner had purchased the property(ies) in question only after acquisition proceedings are over and after the Award was passed. When once the Declaration under Section 6 of the old Act is issued and the land(s) vested with the Government/acquisition



Order dated 22.02.2024
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body, as the case may be, the land owner(s) had no right to sell the property(ies), unless the acquisition is challenged and the same is quashed by Court or the same is withdrawn. Therefore, the title of the petitioner itself is in question and whether the vendor has got a right and title to convey the property(ies) which is under acquisition to the petitioner. When once the vendor has lost the right and title, he cannot convey the right and title to the petitioner, when he himself has no right/title over the property(ies).

6. Therefore, in the above circumstances, the petitioner is not entitled to the relief sought for in the Writ Petition, more so, after the Award enquiry. According to the acquisition body, the amount was arrived at and Award was already passed and the same was intimated to the original owners and the original owners had not come forward and has not challenged either the Notification under Section 4(1) or the Declaration under Section 6 or the Award.

7. Hence, in the above facts and circumstances, the Writ Petition is dismissed. There shall be no order as to costs.

22.02.2024

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Page No.5/7



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Order dated 22.02.2024
in W.P.No.5043 of 2016

P.VELMURUGAN, J

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W.P.No.5043 of 2016

22.02.2024

Page No.7/7