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W.P.No.20378 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.20378 of 2021

S.Loganathan

.... Petitioner

Vs

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

2. The Chairman,
The Tamil Nadu Housing Board,
Anna Salai, Nandanam,
Chennai – 600 035.

3. The Managing Director,
The Tamil Nadu Housing Board,
Anna Salai, Nandanam,
Chennai – 600 035.

4. The Executive Engineer cum Administrative Officer,
The Tamil Nadu Housing Board,
Mogappair Division, Thirumangalam,
Chennai – 600 101.

.... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the third respondent in Letter No.L.A.3(5)/66666/2005 dated 21.04.2021 and to



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quash the same and to direct the third respondent to re-convey the property measuring 9 cents in S.No.8/1 of Nolambur Village, Thiruvallur District in favour of the petitioner.

For Petitioner : Mr.M.V.Seshachari
For R1 : Mr.E.Vijay Anand
Additional Government Pleader
For R2 to R4 : Mr.A.M.Ravindranath Jeyapaul

ORDER

This Writ Petition has been filed challenging the order passed by the third respondent, thereby rejected the request made by the petitioner for re-conveyance of the land admeasuring 9 cents in Survey No.8/1 situated at Nolumbur Village, Tiruvallur District.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner's mother had purchased the land admeasuring 9 cents in Survey No.8/1, situated at Nolumbur Village, Tiruvallur District by a registered sale deed dated 09.11.1932 vide document No.1921 of 1932. Thereafter, she died on 10.12.2007. During her life time, she had executed a registered deed dated 09.05.2005 vide document No.22 of 2005, thereby



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bequeathing the said property in favour of the petitioner. Further, while his mother was alive, the said land, along with other lands, were acquired by the first respondent for development of Ambattur Neighbourhood Scheme by issuing of notification under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred as “Act”). Thereafter, a declaration was made on 30.12.1978 under Section 6 of the Act. Subsequently, an award was passed on 30.09.1985.

4. The symbolic possession of the said land was taken by the first respondent. However, his mother was not paid compensation so far. Thereafter, she had submitted a representation dated 30.05.2005 under Section 48B of the Act for re-conveyance of the said land. It was not considered. While being so, a similar request was made by the neighbourhood people before this Court in W.P.No.10572 of 1986 and the same was disposed of with a direction to consider the representation and pass orders. However, it was rejected and the Hon'ble Supreme Court of India has also confirmed the same. Subsequently, some of the land owners filed writ petitions before this Court for re-conveyance of their respective lands.

5. While being so, the Government passed an order in



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G.O.Ms.No.254, dated 06.10.2003, thereby ordered that the land which were acquired or not acquired by the second respondent may be released to the respective owners after collecting the administration and legal expenses. Thereafter, the petitioner's mother also filed a writ petition before this Court in W.P.No.37908 of 2005. This Court, by an order dated 23.11.2005, directed the respondents to consider the representation submitted by the petitioner for re-conveyance of her land under Section 48B of the Act. However, the said request was rejected and as such, she filed a writ petition before this Court in W.P.No.8734 of 2007.

6. Pending the said writ petition, the subject land was allotted in favour of the third parties. Once again the petitioner's mother filed writ petition in W.P.No.13308 of 2007 challenging the resolution for the said allotment. However, the said writ petition was dismissed. The request for re-conveyance of the land was the subject when the petitioner filed another writ petition before this Court in W.P.No.26774 of 2009. This Court, by an order dated 05.08.2019, while questioning the allotment in favour of the third party, directed the petitioner to submit an application under ex-owner category. Accordingly, the petitioner made request for re-conveyance and the same was rejected. The extent of 539.98 acres of land comprised in Survey Nos.1/1, 1/2



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etc., including the petitioner's mother land were acquired and award has been passed on 31.07.1985. Possession of the entire land had been taken and handed over to the Tamil Nadu Hosuing Board on 02.01.1986. Since the land owner failed to produce documentary evidence, the award amount has been deposited before the Civil Court under Section 30 and 31(2) of the Act.

7. While being so, in the year 2013, the New Act called Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 came into force. Section 114 of Tamil Nadu Land Acquisition Act, 1984 has been repealed. Further, save as otherwise provided in the said Act, the repeal under Section (1) shall not be held to prejudice or affect the general application of Section 6 of the General Clauses Act, 1897 with regard to the effect of repeals. Accordingly the Act shall be deemed to have lapsed in certain cases under Section 24 of the New Act. It is relevant to extract the provision under Section 24(1) and (2) of the Act, which is as follows :

“24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases.—

(1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894,—

(a) where no award under section 11 of the



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said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or

(b) where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

8. The issue in question has been settled by the Hon'ble Supreme Court of India in the landmark Judgment of ***Indore Development Authority Vs. Manoharlal*** reported in the **(2020) 8 SCC 129** and the relevant portion of the



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Judgment is extracted hereunder :

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“343. By and large, concluded cases are being questioned by way of invoking the provisions contained in Section 24. In our considered opinion, the legality of concluded cases cannot be questioned under the guise of Section 24(2) as it does not envisage or confer any such right to question the proceedings and the acquisitions have been concluded long back, or in several rounds of litigation as mentioned above, rights of the parties have been settled.

.....

366.9. Section 24(2) of the 2013 Act does not give rise to new cause of action to question the legality of concluded proceedings of land acquisition. Section 24 applies to a proceeding pending on the date of enforcement of the 2013 Act i.e. 1-1-2014. It does not revive stale and time-barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of mode of taking possession to reopen proceedings or mode of deposit of compensation in the treasury instead of court to invalidate acquisition.”

9. Therefore, the request made by the petitioner cannot be considered for re-conveyance since the process has been over and the respondents fulfilled the conditions imposed under Section 24(2) of the Act.



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Therefore, this Court finds no infirmity or illegality in the order passed by the third respondent and the writ petition is devoid of merits and is liable to be dismissed.

10. Accordingly, this writ petition stands dismissed. The petitioner is at liberty to seek for allotment of the subject property under the ex-owner category. No costs.

22.04.2024

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No
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To

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Housing and Urban Development Department,
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2. The Chairman,
The Tamil Nadu Housing Board,
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G.K.ILANTHIRAIYAN. J.

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and
W.M.P.No.23150 of 2021

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