



WA No.1917 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2024

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WA No.1917 of 2023

M.Durai

.. Appellant

-VS-

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

2. The Managing Director,
Tamil Nadu Housing Board,
Nandhanam, Chennai 600 035.

3. The District Collector,
Chennai, Chennai District.

4. The Tahsildar,
Alandur, Chennai 600 041.

.. Respondents

Prayer: Writ appeal filed under Clause 15 of the Letters Patent against the order of the learned Single Judge dated 05.04.2023 passed in W.P.No.17618 of 2022.



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For the Appellant : Mr.B.Manoharan
for Mr.N.Ganesh Babu

For the Respondents : Mr.C.Kathiravan
Spl. Govt. Pleader for RR 1, 3 and 4

* * * * *

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

We have heard Mr.B.Manoharan, learned counsel for the appellant and Mr.C.Kathiravan, learned Special Government Pleader, for respondent Nos.1, 3 and 4.

2. The present appellant/original writ petitioner filed the writ petition seeking reconveyance of the unutilised land acquired under the award of the year 1986. The appellant also challenged the order passed by the State of Tamil Nadu rejecting the application filed by the appellant under Section 48-B of the Land Acquisition Act, 1894. The learned Single Judge dismissed the writ petition. Aggrieved thereby, the present appeal.



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3. The learned counsel for the appellant submits that since 1986, that is the date of acquisition, till date the land has not been utilised for the purpose for which it was acquired. The encroachers are enjoying the said land. Under Section 48-B, if the land is not required for the public purpose, the same can be given back to the original owner. The learned counsel also relies on Section 16-B of the Land Acquisition Act, 1894 to submit that the Government has powers to forfeit the land. In the circumstances enumerated therein, the present case is a fit case for forfeiture of land and reconveying it to the appellant, who is the original owner. The land has been acquired by the Government from the appellant for specific purpose at a meagre amount. The same has not been utilised for the purpose, as such the appellant is entitled for reconveyance of the land. The learned counsel also relies upon Section 101 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

4. It appears that the appellant is harping on the stand taken by the Tamil Nadu Housing Board in its counter that after the land was



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acquired, the same is in possession of the encroachers and a civil suit was filed by the encroachers.

5. The said facts may not enure to the benefit of the appellant. Though proper approval of the layout was obtained, some encroacher has encroached upon the land and steps are taken to evict the encroacher does not mean that the land has not been utilised for the purpose. After the acquisition, the land was handed over to the Tamil Nadu Housing Board. The Tamil Nadu Housing Board also prepared the layout and got the approval of the same from the Planning Authority. Section 48-B would be applicable if the land is not required for the public purpose for which it was acquired nor it can be used for any other public purpose, meaning thereby if the land is acquired for one public purpose, it can be utilised for other public purpose also. Section 16-B also would not enure to the benefit of the appellant. Under said Section, the land would vest with the Government, that is the Revenue Department.

In view of the above, the learned Single Judge has not committed any error while passing the impugned order. The writ



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appeal, accordingly, stands dismissed. There shall be no order as to costs.

(S.V.G., CJ.)

(D.B.C., J.)

06.02.2024

Index : Yes/No

Neutral Citation : Yes/No

sra

To

1. The Secretary to Government of Tamil Nadu,
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2. The Managing Director,
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