



W.A.No.1266 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 26.03.2024

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.1266 of 2021

1. The State of Tamil Nadu,
Rep. by the Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Fort St. George, Chennai - 600 009.
2. The Special Commissioner and
Commissioner of Land Administration,
Adi Dravidar and Tribal Welfare Department,
Ezhilagam, Chepauk, Chennai - 600 005.
3. The Director,
Adi Dravidar and Tribal Welfare Department,
Ezhilagam, Chepauk, Chennai - 600 005.
4. The District Collector,
Coimbatore District.
Coimbatore.

5. The Special Tahsildar (LA),

<https://www.mhc.tn.gov.in/judis>



W.A.No.1266 of 2021

Adi Dravidar and Tribal Welfare Department,
Coimbatore District, Coimbatore.

.. Appellants

Versus

Dr.(Lt.COL), C.V.Krishnaswami (Retd)

.. Respondent

Prayer: Writ Appeal under Clause 15 of the Letters Patent to allow the Writ Appeal by setting aside the order, dated 18.09.2014 in W.P.No.11795 of 2008.

For Appellants : Mr.T.K.Saravanan,
Government Advocate

For Respondent : No Appearance

JUDGMENT

(Judgment made by the Hon'ble Mr Justice D.Bharatha Chakravathy)

This Writ Appeal is directed against the order of the learned Single Judge, dated 18.09.2014 made in W.P.No.11795 of 2008. By the said order, the learned Single Judge had allowed the Writ Petition. In the said Writ Petition, the respondent had challenged G.O.(Pa). No.10, dated 06.03.2008, and prayed for a consequential direction to re-convey the land in



W.A.No.1266 of 2021

S.F.No.185/1, Goundampalayam village, Coimbatore district.

WEB COPY

2. The brief facts leading to the filing of the present appeal are that the land in question was acquired by the appellants under the *Land Acquisition Act, 1894* (hereinafter referred to as 'the *Act*') in the year 1988. A notification under Section 4(1) of the *Act* was issued vide G.O.Ms.No.159, dated 26.09.1988. Thereafter, the proceedings namely, Section 5-A enquiry and Section 6 declaration, followed, and finally, an award was passed on 21.11.1991. Since the original owner did not come forward to receive the award amount, the same was deposited on the file of the learned Subordinate Judge, Coimbatore on 30.10.1992. Thereafter, the land was also duly handed over to the Adi Dravidar and Tribal Welfare Department. They had in turn issued pattas to the landless poor persons for providing house sites.

3. While so, the respondent claims that his daughter and son-in-law had purchased the land adjacent to the present land in S.F.No.185/2 on



W.A.No.1266 of 2021

WEB COPY

24.11.1995. To build a hospital, the respondent also purchased the same after ascertaining with the Tahsildar, Coimbatore through a certificate, dated 11.03.1998 that the land in S.F.No.185/1 belongs to *Shanthi Rajendran* and *G.Rajendran*. However, when the respondent later came to know that the land was already acquired, he made a representation, dated 23.02.2004 to the District Collector, Coimbatore. Thereafter, further representations were made to the Special Commissioner, Land Administration, and other authorities. The respondent made a representation, dated 30.09.2004 to the Government for re-conveyance of the land under Section 48-B of the *Act*. Since there was no response, the respondent approached this Court by way of the Writ Petition in W.P.No.35393 of 2004. By an Order, dated 01.02.2005, this Court directed the appellants to consider the representation of the respondent. Thereafter, the appellants considered the request made by the respondent and passed G.O.(Pa). No.10, dated 06.03.2008 rejecting the request. The rejection was because the land is very much required for the issue of house site patta to Adi Dravidars and the respondent being a



W.A.No.1266 of 2021

WEB COPY

purchaser post-acquisition, has no locus standi to seek for re-conveyance nor had given any valid reason for the re-conveyance. Challenging the Government Order, the Writ Petition was filed. A counter-affidavit was filed by the fourth appellant resisting the claim made in the Writ Petition, by reiterating the reasons mentioned in the impugned order.

4. By the order under appeal, dated 18.09.2014, the learned Single Judge considered the case of the parties and held that when the land has been acquired to provide house sites for Adi Dravidar people, the same should have been done only under the *Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act, 1978* and ought not to have initiated under the *Land Acquisition Act, 1894*. After the acquisition, a part of the land was also exempted on request of another owner namely, *Palanisamy*, and therefore, the very purpose of providing house sites is defeated. Further, even after the acquisition, patta stood in the name of *Shanthi Rajendran* and *G.Rajendran* and the compensation amount was lying unused. The respondent needs the



W.A.No.1266 of 2021

WEB COPY

land to put up a hospital for his daughter and son-in-law. The land has been acquired only to satisfy a group of private individuals and therefore, is arbitrary. The State can provide free houses site at different sites with a better environment. For the above reasons, the Writ Petition was allowed. Feeling aggrieved, the State authorities are on appeal.

5. In the appeal, notice was issued to the respondent by an order, dated 30.04.2021, and an interim order of stay was also granted. Even after service on the respondent, there was no appearance on behalf of the respondent. When the matter came up on 06.06.2023, since none appeared for the respondent, the matter was posted on 08.08.2023. Again on 08.08.2023, in the interests of justice, it was ordered to issue a notice of final disposal once again to the respondent returnable on 11.10.2023. Even after the service of the said notice, none appeared for the respondent on 11.10.2023. To give one more opportunity, the matter was again adjourned to 13.12.2023, further on 05.02.2024 and 12.03.2024 and finally, the matter



W.A.No.1266 of 2021

WEB COPY

was posted on 20.03.2024 with an observation that if none appears for the

respondent, the Court will be constrained to decide the matter on merits.

Even thereafter, there was no representation on behalf of the respondent and

as such, the matter was heard in detail by this Court.

6. *Mr.T.K.Saravanan*, learned Government Advocate for the appellants would submit that when the land in question has been duly acquired and has been put into use, there is no question of re-conveying the land under Section 48-B of the *Act*. The respondent is only a subsequent purchaser and his purchase itself is void since the same is well after the acquisition. He has no right or interest to pray for re-conveyance under Section 48-B of the *Act*. Therefore, the learned Single Judge erred in allowing the Writ Petition.

7. We have considered the rival submissions made on either side and perused the material records of the case.



W.A.No.1266 of 2021

WEB COPY

8. On a perusal of Section 48-B of the *Act*, it would be clear that if the Government is satisfied that the land which is acquired is not needed for the original purpose for which it is acquired or any other public purpose, it can re-convey the land to the original owner of the land. In this case, the land was acquired for a public purpose and the same is already being utilized for the said purpose. Secondly, such re-conveyance can only be to the original owner of the land from whom the land was acquired. The respondent is a purchaser post-acquisition. His purchase itself is *void ab initio*. The respondent does not have any right even to seek for re-conveyance. Therefore, the reasons contained in the impugned order are unassailable.

9. The reasonings of the learned Single Judge are not relevant to the prayer made. The validity of the land acquisition proceedings is not in question. Merely because a part of the acquired land has been returned, that too at the request of the original owner, on a special consideration that his family consisted of three mentally retarded children, the respondent will not



W.A.No.1266 of 2021

WEB COPY

get any right. Even with the remaining 1.02 acres, the Government can go ahead with the grant of house sites to the landless poor. The learned Single Judge also erred in holding that the respondent is entitled to relief under Section 24(2) of the *Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013* which is not even prayed for by the respondent. If such a Writ Petition is filed, the Court has to consider the claim as per the judgment of the Hon'ble Supreme Court of India in *Indore Development Authority Vs. Manoharlal and Ors.*¹ and decide the issue and in this case, the compensation has been tendered and upon refusal, it has been deposited in the Civil Court. The respondent is challenging the order refusing to re-convey the land under Section 48-B of the *Act*. Therefore, none of the reasonings mentioned in the order under appeal are relevant to the issue and the same are patently incorrect in law and wholly untenable in the facts and circumstances of the case and as such, this is a fit case for the interference of this Court.

¹ (2020) 8 SCC 129



W.A.No.1266 of 2021

WEB COPY

10. Accordingly, this Writ Appeal is allowed. The Writ Petition filed by the respondent in W.P.No.11795 of 2008 shall stand dismissed. There shall be no order as to costs. Consequently, C.M.P.No.8065 of 2021 is closed.

(S.V.G., CJ.)

(D.B.C., J.)

26.03.2024

Index : yes

Speaking order

Neutral Citation : yes

grs



WEB COPY



W.A.No.1266 of 2021

**THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.**

grs

W.A.No.1266 of 2021



WEB COPY



W.A.No.1266 of 2021

26.03.2024