



W.P.(MD) No.10481 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.08.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.10481 of 2015

and

M.P(MD)Nos.1 and 2 of 2015

M.Jeya Murugesan

.. Petitioner

Vs.

1.The State of Tamil Nadu,
Rep., by its Secretary to Government,
Fort George, Chennai.

2.The District Collector,
Tirunelveli.

3.The Superintending Engineer,
Distribution, TNEB,
Tirunelveli.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the second respondent in Mu.Mu./J1/60149/2009, dated 20.06.13 and quash the same and consequently direct the respondents to re-convey the land in S.No.



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883/1A to an extent of 2.42 acres, in Thisayanvilai Village, Radhapuram Taluk, Tirunelveli District.

For Petitioner : Mr.K.Esakki
For R1 & R2 : Mr.B.Saravanan
Additional Government Pleader

ORDER

The above writ petition has been filed seeking to quash the order passed by the second respondent dated 20.06.2013 and consequently to direct the respondents to re-convey the land in S.No.883/1A measuring 2.42 acres in Thisayanvilai Village, Radhapuram Taluk, Tirunelveli.

2. It is the case of the petitioner that the lands in S.No.883/1A measuring 2.42 acres in the above said village belonged to her father-in-law, Mahalingam Nadar, who had purchased it under a registered sale deed dated 27.10.1976. On the death of her father-in-law, on 03.12.2000, the property devolved on her husband Murugesan and his two sisters Ambihai Ammal and Anantha Vasuki, as the petitioner's mother-in-law had predeceased her husband. Thereafter, the two sisters of the petitioner's husband had registered relinquishment deeds dated



10.05.1973 and 09.01.1981 relinquishing their share in the property in favour of their brother, the petitioner's husband. As a result, the petitioner's husband became entitled to the entire extent of 2.42 acres.

3. Meanwhile, the second respondent had initiated proceedings for acquiring the land for the purpose of installing an electricity sub-station on the request of the third respondent. The land acquisition proceedings were concluded on 23.07.1990. However, the compensation amount was neither paid to the petitioner's father-in-law nor to her husband and it was deposited and till date, compensation amount has not been received by them.

4. Though the land was acquired for installation of a sub-station in the year 1989 itself, the land was not utilised by the third respondent for the purpose till the date of filing of the writ petition and the same is kept intact. It is the contention of the petitioner that during his life time, her husband had requested for reconveyance of the land to which there was no response. On 27.12.2003, he had died leaving behind the petitioner herein, her two sons and daughter. The petitioner had also renewed the



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request on 11.07.2005. However, the same was not considered.

Therefore, she had filed W.P.No.9600 of 2006 before this Court against the second respondent and the Revenue Divisional Officer, Cheranmahadevi. The writ petition was disposed of with a direction that the respondents therein should consider the representation of the petitioner and pass orders. Thereafter, a fresh representation was also given by the petitioner and the third respondent, during the enquiry conducted by the revenue authority, informed that the land was not utilised by their department and the same is also not required and a report to this effect was sent by the Revenue Inspector to the Tahsildar recommending reconveyance by proceedings dated 29.11.2012. However, no orders have been passed in this regard. Therefore, the petitioner has come forward with the writ petition in question.

5. A counter affidavit has been filed by the third respondent in which they would deny the contention of the petitioner that the land is not sought to be utilised. On the contrary, they would state that the reasons for the lands not being put to use earlier was on account of the



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delay in the acquisition proceedings both on the technical side as well as on account of challenges to the land acquisition proceedings. Since the requirement was urgent, instead of proceeding to erect 110/11 KV sub-station, the third respondent proceeded to erect a commissioned 33/11 KV sub-station on an other piece of land belonging to the Town Panchayat of Thisayanvilai. The third respondent would reiterate the fact that the necessity for erecting 110/11 KV sub-station is very much in the anvil and an urgent requirement. Therefore, they would submit that the lands cannot be re-conveyed. That apart, the petitioner in W.P.No.9600 of 2006 and the present writ petitioner are one and the same, inasmuch as it is the petitioner in the instant writ petition, who was instrumental for the writ petition in W.P.No.9600 of 2006 being filed. That apart, the third respondent would submit that the original owner Mahalinga Nadar has been present throughout the acquisition proceedings and he consented to all the formalities and procedure and it was only thereafter, the property was declared to be the property of the Tamil Nadu Electricity Board, on 23.07.1990 by the Sub-Collector, Cheranmahadevi. The petitioner is attempting to set out a new defence. She would also



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submit that after the acquisition order was passed on 23.07.1990, the compensation award has also been deposited into the Sub-Court, Tirunelveli on 01.10.1990 itself by the third respondent. The third respondent once again reiterated the fact that the delay in the installation of 110/11 KV sub-station was only on account of the legal impediments. Therefore, the petitioner cannot accuse the third respondent. He would submit that having appeared for the final award hearing and the amounts having been deposited, the award has become final. Therefore, he would submit that the writ petition has to be dismissed.

6. Heard the learned counsels.

7. The entire crux of the demand made by the petitioner rests on the provisions of Section 48-B of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act” for brevity). The same is an amendment effected by the Government of Tamil Nadu. Section 48-B of the Act would read as follows:

“48-B. Transfer of land to original owner in certain cases.—



Where the Government are satisfied that the land vest in the Government under this Act is not required for the purpose for which it was acquired, or for any other public purpose, the Government may transfer such land to the original owner who is willing to repay the amount paid to him under this Act for the acquisition of such land inclusive of the amount referred to in sub-section (1-A) and (2) of section, 23, if any, paid under this Act.”

8. A reading of the above provision contemplates a withdrawal from the acquisition proceedings by the Government voluntarily. It is only when the Government is satisfied that the land is not required for the purpose for which it was acquired or for any other public purpose, the transfer could be effected to the land owner, who is willing to repay the amount received as compensation together with the amounts referred to in sub-section (1-A) and (2) of Section 23 of the Act, if these amounts were paid. Therefore, the discretion vests entirely with the Government to decide if the lands can be re-conveyed and in the instant case from a reading of the counter, it is clear that the reasons for acquisition are larger public interest and the respondents have kept the project in the



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anvil and are likely to renew the same. Further, the compensation has also been deposited and the land owner had appeared for the final award. The urgency for the acquisition proceedings is evident from this fact that owing to the legal hurdles, the third respondent has erected and commissioned 33/11 KV sub-station. It was also represented that the original proposal is still in the anvil.

9. In these circumstances, this Court cannot direct re-conveyance. Therefore, this Writ Petition is dismissed. No costs. Consequently, connected MPs are closed.

06.08.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes

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P.T.ASHA, J.

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