



W.P.(MD) No.11075 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.11075 of 2015

Y.Nahomi

.. Petitioner

Vs.

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

2.The Chairman and Managing Director,
Tamil Nadu Housing Board,
493, Anna Salai, Nanthanam,
Chennai-600 035.

.. 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 proceedings issued by the second respondent herein in Letter No.LA5(4)/43201/2012, dated 15.05.2015, quash the same and further direct the second respondent herein to re-convey the un-utilised land in Survey No.L5/4/3A of Vadiveeswaram Village to the petitioner in the light of G.O.Ms.No.254 (Housing and



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Urban Development (HB5 Department) dated 06.10.2003 within a reasonable time as may be specified by this Court.

For Petitioner : Mr.E.V.N.Siva
For Respondent-1 : Mr.P.Thambidurai
Government Advocate
For Respondent-2 : Mr.S.Velmurugan

ORDER

The petitioner seeks to quash the proceedings issued by the second respondent herein in Letter No.LA5(4)/43201/2012, dated 15.05.2015, and to direct the second respondent herein to re-convey the un-utilised land in Survey No.L5/4/3A of Vadiveeswaram Village to the petitioner in the light of G.O.Ms.No.254 (Housing and Urban Development (HB5 Department) dated 06.10.2003.

2. The case of the petitioner is that she owned 16.969 cents of land in S.No.L5/4/3A of Vadiveeswaran Village, Agasteeswaran Taluk. When she was preparing for construction of a dwelling house in the above land, it was acquired for the Housing Board Neighbourhood Scheme along with other lands as per Award No.1/94-95, dated 27.06.1994 of the Special Tashildar, Neighbourhood Scheme, Nagercoil. The petitioner did



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not object the acquisition. However, the other lands owners disputed the acquisition by filing W.P.No.16647 of 1992 and the same was allowed and the land acquisition proceedings were quashed on 19.11.1999. Insofar as the petitioner's land is concerned, she was paid compensation at the rate of 1,050/- per cent. The petitioner received the compensation and moved the Court concerned for adequate compensation. The Sub-Court, Nagercoil enhanced the compensation at the rate of Rs.3,500/- per cent. The High Court reduced the compensation to Rs.2,350/- per cent. The second respondent constructed houses in the land taken possession of by the Board. Since more than 2000 acres of acquired land remained un-utilised in various places, the first respondent issued G.O.No.254, Housing and Urban Development (HB5) Department, dated 06.10.2003 for taking action for effective utilization of land. The petitioner submitted detailed representation to the respondents herein on 28.01.2013 for re-conveying the un-utilized land followed by a reminder dated 24.09.2013. As there was no response, the petitioner filed W.P.(MD) No.18157 of 2013. This Court, by its order dated 16.06.2014, directed the second respondent herein to consider the



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petitioner's representation dated 28.01.2013, in the light of G.O.No.254, dated 06.10.2003 within a period of eight weeks. However, the second respondent, *vide* the impugned order dated 15.05.2015, informed the petitioner that the Government rejected the claim of reconveyance, as the land referred to in S.No.L5/4/3A is required for implementing the comprehensive scheme of the Housing Board. Therefore, the petitioner is before this Court with the present writ petition.

3. The second respondent, for whose purpose the land had been acquired, has filed a counter affidavit in which they have denied the allegations of the petitioner that the lands of the petitioner measuring 16.969 cents were not utilised in view of the non-continuity and access to the built up area. The second respondent has stated that adjacent lands were already developed and allotted to allottees and with reference to the petitioner's land, the scheme was made ready and the project was about to commence. Therefore, the question of the property lying vacant would not arise. It is also their contention that once an award is passed after the acquisition proceedings, the land vests with the



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Government and the land was already handed over to the Tamil Nadu Housing Board, the beneficiary body. Any rights acquired thereafter by the land owner stand automatically extinguished. They would contend that Section 48-B of the Land Acquisition Act, 1894, would be applicable only if the land is not needed by the Government. He would state that in the instant case, lands were required by them. Further, they would submit that large portion of the lands could not be taken possession of on account of litigation being pending against the acquisition proceedings.

4. They have also filed an additional affidavit, pursuant to the orders of this Court dated 04.09.2023, wherein they would submit that part of the lands acquired have already been put to use and they have never intimated their disinclination to develop the remaining lands. It is also stated that they have received instruction from their Chief Engineer that they propose to put up a ground + three floor flat in the land comprised in S.F.No.L5/4/3A to an extent of 16.59 cents for the use of public and theses lands constitute the lands of the petitioner.



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5. Section 48-B of the Land Acquisition 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.”

6. From a perusal of the affidavit filed by the respondent-Board, it is clear that the Board has now decided to construct a ground + three floor flat in S.F.No.L5/4-3A to an extent of 16.59.

7. In the light of the above, the relief sought for by the petitioner in this writ petition cannot be granted.



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8. In the result, this Writ Petition is dismissed. No costs.

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NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

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