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WP.Nos.33888 of 2007
& 26821 of 2008

In the High Court of Judicature at Madras

Reserved on 03.3.2025	Delivered on : 07.3.2025
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Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition Nos.33888 of 2007 & 26821 of 2008
& M.P.Nos.1 of 2007 & 1 of 2008

1.V.Venkatesan
2.V.Shankar
3.V.Sudha

...Petitioners in
both the WPs

Vs

1.The State of Tamil Nadu, rep.
by its Secretary to Government,
Housing & Urban Development
Department, Fort St.George,
Chennai-9.

2.The Tamil Nadu Housing Board,
rep.by its Managing Director,
Nandanam, Chennai-35.

3.The Special Deputy Collector
(LA), Tamil Nadu Housing
Board, Nandanam, Chennai-35.

...Respondents
in both WPs

PETITIONS under Article 226 of The Constitution of India praying
for the issuance of

(i) a Writ of Mandamus forbearing the respondents from in any



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way interfering with the petitioners' peaceful possession and enjoyment of the property in survey No.105/3 (now Survey No. 105/3A part), Thiruvanmiyur Village and bearing Door No.4, 21st East Street, Kamaraj Nagar, Thiruvanmiyur, Chennai-41 and more fully described in the schedule to the accompanying petition in any manner whatsoever relying upon the Notification under Section 4(1) of the Land Acquisition Act dated 09.8.1978, which has been set aside by this Court by judgment dated 15.11.1989 in W.P.No.10902 of 1989 -

South Madras Registrar's Office, Saidapet Sub-Registrar I, Mylapore - Triplicane Taluk, Thiruvanmiyur Village, Kamaraj Nagar, 21st East Street, door No.4, survey No.105/3, presently survey No.105/3A (part), measuring 3,600 sq.ft. bounded on the north by Pandarinathan's plot and house; south by 40 feet road; east by Kothandaraman's plot; and west by Sriram flats, measuring east to west on the north 40 feet, east to west on the south 40 feet, north to south on the east 90 feet and north to south on the west 90 feet (WP.No.33888 of 2007); and

(ii) a Writ of Mandamus forbearing the respondents from invoking the provisions of the Land Acquisition Act pursuant to the Notification under Section 4(1) the of Land Acquisition Act 1894 in G.O.Ms.No.1096 Housing and Urban Development dated 17.7.1978



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and pursuant to the Notification under Section (6) of the Land Acquisition Act 1894 in view of the decision in W.P.No.1478 of 1982 dated 05.9.1983 (confirmed in W.A.No.479 of 1985 dated 08.7.1985) and in view of the decision in W.P.No.10902 of 1989 dated 15.11.1989 thereby forfeiting the schedule mentioned land -

South Madras Registrar's Office, Saidapet Sub-Registrar I, Mylapore - Triplicane Taluk, Thiruvanmiyur Village, Kamaraj Nagar, 21st East Street, door No.4, survey No.105/3, presently survey No.105/3A (part), measuring 3,600 sq.ft. bounded on the north by Pandarinathan's plot and house; south by 40 feet road; east by Kothandaraman's plot; and west by Sriram flats, measuring east to west on the north 40 feet, measuring east to west on the south 40 feet, measuring north to south on the east 90 feet and measuring north to south on the west 90 feet totally measuring an extent of 3,600 sq.ft. (WP.No.26821 of 2008).

For Petitioners	:	Mr.R.Suresh Kumar for M/s.K.M.Vijayan Associates
For R1 & R3	:	Mr.A.Selvendran, SGP
For R2	:	Mr.A.M.Ravindranath Jeyapal Standing Counsel



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COMMON ORDER

W.P.No.33888 of 2007 has been filed seeking for the issuance of a Writ of Mandamus forbearing the respondents from in any way interfering with the peaceful possession and enjoyment of the property measuring 3,600 sq.ft. in Survey No.105/3, New Survey No.105/3A Part, Thiruvanmiyur Village bearing door No.4, 21st East Street, Kamaraj Nagar, Thiruvanmiyur, Chennai-41.

2. W.P.No.26821 of 2008 has been filed challenging the Notification issued under Section 4(1) of the Land Acquisition Act, 1894 (for short, the Act) and the Declaration made under Section 6 of the Act in view of the order passed in W.P.No.1478 of 1982 dated 05.9.1983, which was confirmed in W.A.No.479 of 1985 dated 08.7.1985 and in view of the decision in W.P.No.10902 of 1989 dated 15.11.1989.

3. Heard the learned counsel appearing on behalf of the petitioners, the learned Special Government Pleader appearing for respondents 1 and 3 and the learned Standing Counsel appearing for the second respondent.



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4. The case of the petitioners is as follows :

(i) The property measuring an extent of 10.5 cents in Survey No.105/3A Part at Thiruvanmiyur Village was owned by one Mr.Vedathri Gurukkal (a) Chellappa along with other vast extent of lands. Apart from other lands, the said property became the subject matter of acquisition through a Notification issued under Section 4(1) of the Act dated 17.7.1978. Subsequently, the Declaration under Section 6 of the Act was published on 06.8.1981.

(ii) At the first instance, the said Mr.Vedathri Gurukkal (a) Chellappa along with his brother filed W.P.No.1478 of 1982 before this Court seeking to quash the Declaration under Section 6 of the Act and it was allowed by order dated 05.9.1983, however, leaving the Notification issued under Section 4(1) of the Act dated 17.7.1978 intact. This order was confirmed on appeal by the State in W.A.No.479 of 1985 vide judgment dated 08.7.1985.

(iii) Subsequently, the said Mr.Vedathri Gurukkal (a) Chellappa filed another writ petition in W.P.No.10902 of 1989 before this Court challenging the Notification under Section 4(1) of the Act dated 17.7.1978. W.P.No.10902 of 1989 was filed for the other extent of lands leaving out the subject property and it was allowed on 15.11.1989 in so far as the land owned by the said Mr.Vedathri



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Gurukkal (a) Chellappa was concerned. Thereafter, the said Mr.Vedathri Gurukkal (a) Chellappa executed an agreement of sale dated 13.7.1977 in favour of the father of the petitioners measuring an extent of 3,600 sq.ft. in S.No.105/3 namely the subject property. However, the sale deed was not executed in favour of the father of the petitioners.

(iv) Hence, a suit in O.S.No.3252 of 1995 was filed by the petitioners and their parents on the file of the City Civil Court seeking a decree for permanent injunction against the said Mr.Vedathri Gurukkal (a) Chellappa, in which, an interim order was granted in I.A.No.7423 of 1995. Later, O.S.No.534 of 1997 also came to be filed by the petitioners and their mother on the file of the City Civil Court seeking for the relief specific performance. After contest, O.S.No.534 of 1997 was decreed on 21.3.2003 by the Trial Court and it was confirmed on appeal in A.S.No.9 of 2004 on the file of the Additional District & Sessions Court-cum-Fast Track Court No.4, Chennai by judgment dated 28.2.2005.

(v) During the pendency of S.A.No.882 of 2006 filed against the decree dated 28.2.2005, a compromise was entered into between the parties and the said Mr.Vedathri Gurukkal (a) Chellappa executed a sale deed dated 12.4.2007 registered as doc.No.3159 of 2007 on the



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file of the Joint 1 Sub-Registrar, South Chennai conveying the subject property in favour of the petitioners. Pursuant to that, the petitioners were in possession and enjoyment of the subject property.

(vi) The petitioners wanted to take advantage of the said order dated 15.11.1989 passed in W.P.No.10902 of 1989 wherein the Notification under Section 4(1) of the Act was quashed in so far as the land owned by the said Mr.Vedathri Gurukkal (a) Chellappa was concerned. According to the petitioners, there was no reason to continue with the acquisition proceedings as against the petitioners and more particularly when the petitioners became the owners of the subject property by virtue of a decree passed by the competent Civil Court. It was under those circumstances, the above writ petitions came to be filed before this Court.

5. The second respondent filed a counter affidavit in WP.No. 26821 of 2008. In W.P.No.33888 of 2007, the second respondent filed M.P.No.1 of 2008 seeking to vacate the interim order granted on 26.10.2007 in M.P.No.1 of 2007 and filed a counter. In the counters, the second respondent took a stand that in so far as the subject property is concerned, the acquisition proceedings were never quashed and that the earlier orders relied upon by the petitioners pertained to



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the lands in respect of different survey numbers, which will not apply to the subject property.

6. In the counters, the second respondent also took a stand that the petitioners purchased the subject property after the acquisition proceedings commenced and that the very sale made in favour of the petitioners after passing of the award is null and void. The second respondent took a further stand that an extent of 0.08 1/2 acre was already handed over to the second respondent in S.No.105/3A part on 12.1.1997 and that the balance extent of 0.10 1/2 acre was not handed over to the second respondent due to the existing structure. Ultimately, the second respondent sought for dismissal of these writ petitions.

7. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record.

8. In the case in hand, there is no dispute with regard to the fact that the orders that were relied upon by the petitioners in W.P.No. 1478 of 1982 dated 05.9.1983 and W.P.No.10902 of 1989 dated



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15.11.1989 do not relate to the subject property and that they relate to some other properties. In so far as the subject property is concerned, the petitioners came into the scene only in the year 2007 after the said Mr.Vedathri Gurukkal (a) Chellappa executed the registered sale deed dated 12.4.2007 in favour of the petitioners on the conclusion of the civil proceedings. By then, the award was passed in 1986 itself.

9. On going through the award proceedings dated 23.9.1986, it is seen that the original owner of the subject property namely the said Mr.Vedathri Gurukkal (a) Chellappa appeared before the Enquiry Officer and claimed that he owned 0.11 1/2 acre in S.N.105/3A and he also spoke about the construction of the house in the land after the Notification was issued under Section 4(1) of the Act. Upon hearing him, the compensation amount was fixed at Rs.8,042/-. Further, after adding solatium and increase in the market value, the total compensation amount was fixed at Rs.18,295/-.

10. A specific stand has been taken in the counters to the effect that an extent of 0.08 1/2 acre was handed over to the second respondent by the Land Acquisition Officer in 1997. However, the



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balance extent was not able to be handed over due to the encroachment by constructing a building.

11. The Hon'ble Apex Court, in the case of ***Land & Building Department through Secretary & another Vs. Attro Devi & Others [reported in 2023 LiveLaw (SC) 302]***, held that once the possession vests as per Sections 16 and 17 after the Notification under Section 4(1), the Declaration under Section 6, the notice issued under Section 9 and the award passed under Section 11 of the Act, the property will be free from all encumbrances. Thereafter, the land owner cannot have any animus to take back the property and have control over it. If he has retained the possession or otherwise trespassed into it after possession has been taken over by the State, he has to be considered as a trespasser.

12. The above judgment of the Hon'ble Apex Court squarely applies to the facts of this case. In the instant case, after the award was passed pursuant to providing an opportunity to the original land owner of the subject property, Section 16 of the Act comes into play and the subject property absolutely vests with the Government. The petitioners came into the scene as the subsequent purchasers only in



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the year 2007. To start with, the sale itself is null and void since it has taken place after the issuance of the Notification under Section 4 of the Act. If the petitioners are in possession of the subject property, they can be considered only as trespassers into the subject property as per the said judgment of the Hon'ble Apex Court.

13. The petitioners also submitted that they have been in possession of the subject property right through and that therefore, the respondents can consider the applicability of G.O.Ms.No.247 Housing & Urban [LA-2(2)] Department dated 23.12.2024 for withdrawal of the land acquisition proceedings in so far as the subject property belonging to the petitioners is concerned since, in respect of the other lands, the Notification was quashed much earlier on the writ petition filed by the original owner of those properties. Thus, the last ditch attempt/effort made by the petitioners is to some how stick on to the subject property.

14. The said Government Order that was relied upon by the petitioners merely provided for dropping the acquisition proceedings in certain cases of land acquisition where the lands are not required for the project undertaken by the second respondent. For this purpose, a



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Committee is appointed and the Committee has to decide on the same.

15. The petitioners do not have any legal right to seek for such a Mandamus. At best, they can make a representation to the respondents and request for considering the subject property being dropped from the acquisition proceedings. It is for the respondents to decide on the said request on its own merits and in accordance with law. This observation does not create any new right in favour of the petitioners and it is only a passing observation made based on one of the submissions of the learned counsel for the petitioners.

16. In the result, both the writ petitions are dismissed. No costs. Consequently, the connected MPs are also dismissed.

07.3.2025

To

1.The State of Tamil Nadu, rep.
by its Secretary to Government,
Housing & Urban Development
Department, Fort St.George,
Chennai-9.

2.The Tamil Nadu Housing Board,
rep.by its Managing Director,
Nandanam, Chennai-35.



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3.The Special Deputy Collector
(LA), Tamil Nadu Housing
Board, Nandanam, Chennai-35.

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N.ANAND VENKATESH,J

RS

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