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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-11-2025

CORAM

**THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

**WA No. 2151 of 2022
and
CMP No. 16048 of 2022**

The Managing Director,
Tamil Nadu Housing Board
Nandanam, Chennai - 600 035.

Appellant(s)

Vs

1.The Hussainy Trust
Rep. by its Secretary,
No.20, Anna salai,
Chennai - 600 006.

2.The Government of Tamil Nadu
Rep. by its Secretary,
Housing and Urban Development
Department, Fort.St. George,
Chennai - 600 009.

3.The Government of Tamil Nadu
Rep by its Secretary,
Revenue Department,
Fort St. George, Chennai - 600 009.

4.The Special Tahsildar (LA)
Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.

5.The Tahsildar
Ambattur Taluk,



Ambattur, Chennai.

6.The Chief Educational Officer
Thiruvallur.

Respondent(s)

PRAYER

Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 17.09.2021 made in WP.No.23914 of 2012 passed by the Learned Judge by allowing this Writ Appeal before Hon'ble Court.

For Appellant(s): Dr.N.Moorthi,
Standing Counsel [For TNHB]

For Respondent(s): Mr.Duraikkan S.Phillip For R1
Mr.Vadivelu Deenadayalan
Additional Government Pleader
For R2 to R6.



J U D G M E N T

(Judgment was delivered by S.M.Subramaniam J.)

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The present Intra-Court Appeal has been instituted to assail the writ order dated 17.09.2021 in W.P.No.23914 of 2012. The Tamil Nadu Housing Board preferred the present appeal.

2. The 1st respondent/writ petitioner filed writ petition challenging the rejection order passed by the Government in proceedings dated 19.03.2012 refusing to re-convey the acquired land under the Land Acquisition Act, 1894. Since the Writ Court allowed the writ petition, Tamil Nadu Housing Board preferred the present appeal.

3. Section 4(1) Notification was approved vide G.O.Ms.No.138, Housing Department on 14.05.1975, in respect of subject land in Survey No.157 for an extent of 1.89 acres in Ramapuram Village, Saidapet Taluk. Along with the said notification, Survey No.158 to an extent of 7.2 acres also notified. Draft Declaration under Sections 6 and 7 was approved vide G.O.Ms.No.969, Housing Department dated 07.06.1978 in respect of 1.89 acres in Survey No.157 and 7.21 acres in Survey No.158.

4. The 1st respondent/Trust has filed W.P.No.10795 of 1986 challenging



the land acquisition proceedings. The said writ petition came to be disposed of by the learned Single Judge of this Court on 09.07.1997 stating that a high-level committee has to consider the requirements to run a school by the 1st respondent/Trust and accordingly the Government shall take a final decision and pass appropriate orders on merits within a period of six weeks.

5. Award No.5 of 1986 was passed on 01.09.1988 itself. Compensation amount of Rs.67,414.45/- was deposited in the Sub-Court, Poonamallee under Sections 30 and 31(2) of the Land Acquisition Act.

6. Pursuant to the orders of the learned Single Judge in W.P.No.10795 of 1986, the Chief Educational Officer, Education Department, Tiruvallur District had conducted a site inspection on 28.02.2001 and submitted a report before the Government. Consequently, the Government excluded the land in Survey No.158 to an extent of 7.21 acres enabling the 1st respondent/Trust to run a school.

7. Not satisfied with the exclusion of 7.21 acres of land, the 1st respondent challenged the rejection order passed by the Government in W.P.No.23914 of 2012. Writ Court allowed the writ petition mainly on the ground that the Chief Educational Officer's report has not been considered by the Government. The Chief Educational Officer recommended for exclusion of



the land but the Government excluded only to an extent of 7.21 acres in Survey No.158 but not excluded the subject land involved in the present writ appeal proceeding in Survey No.157 to an extent of 1.89 acres. Based on the said reason, the Government order of rejection, rejecting re-conveyance of the subject land came to be set aside.

8. The learned Additional Government Pleader appearing on behalf of the respondents 2 to 6 would submit that the land acquisition proceedings completed in entirety and award amount has been deposited in the Court. It is a vacant land and possession has not been taken by Housing Board. The land is very much needed for the neighbourhood scheme, as adjacent lands have already been utilised under the scheme. Thus, Government rejected the claim of the 1st respondent to re-convey subject land to an extent of 1.89 acres in Survey No.157. However, the major extent of 7.21 acres in Survey No.158 has already been excluded from the land acquisition proceedings. Therefore, the claim of the 1st respondent to exclude the subject land was rejected.

9. The learned counsel for the 1st respondent would oppose by stating that report of the Chief Educational Officer has not been considered and the Government has not assigned any reason in the impugned order of rejection passed vide proceedings dated 19.03.2012. Thus, the Writ Court considered these facts and allowed the writ petition. The 1st respondent/Trust is running a



school and orphanage and they require entire extent of land. Since it is a minority institution, the claim of the 1st respondent to re-convey the land ought to have been considered by the Government. Therefore, the present appeal is to be rejected.

10. That apart, Government recently issued G.O.Ms.No.52, Housing and Urban Development [LA-2(2)] Department dated 27.03.2025 to re-convey unutilised acquired lands and even under the said Government order, the case of the 1st respondent is to be considered.

11. With reference to the Government order now relied, it is passed recently in March, 2025 and it is for the 1st respondent to submit a representation to the Government for consideration. However, this Court in exercise the powers of judicial review cannot direct the Government to re-convey the acquired land long before.

12. This Court is of the considered view that the acquisition proceedings were completed in all respects in the year 1988. During the relevant point of time, major extent of land measuring 7.21 acres in Survey No.158 was excluded, where the 1st respondent runs a school. That being the factum, rejection of acquired land in respect of lesser extent of 1.89 acres in Survey No.157 would not anyway affect the functioning of the school in the larger



extent of land measuring 7.21 acres. In any event, it is for the Government to take a decision to re-convey the land. High Court cannot issue any direction to re-convey the land, since the scope of Section 48B of the Land Acquisition Act, 1894 itself is limited and the discretion vest with the Government.

13. That apart, the lands acquired may be utilised for any other public purposes other than the purpose for which the lands were acquired originally. This being the principles settled, High Court, re-conveying the acquired land would not arise at all.

14. The reasons stated by the Writ Court that the report of the Chief Educational Officer has not considered by the Government is incorrect, since the impugned Government order states that the reports of the chief Educational Officer are considered and the acquired lands are required for Tamil Nadu Housing Board to form a comprehensive housing scheme. If the reasons had been stated in the order impugned dated 19.03.2012, the Writ Court would not have issued a direction to re-convey the land.

15. In view of the facts and circumstances, the writ order impugned dated 17.09.2021 in W.P.No.23914 of 2012, is set aside and consequently, the Writ Appeal stands allowed. No costs. The connected Miscellaneous Petition is closed.



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(S.M.SUBRAMANIAM J.)(MOHAMMED SHAFFIQ J.)

04-11-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

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To

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