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W.A.(MD)NO.473 OF 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.02.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.A.(MD)Nos.473 & 474 of 2021

W.P.(MD)No.473 of 2021

J.Franklin Jose

... Appellant / Petitioner

Vs.

1. The Revenue Divisional Officer,
Nagercoil Division,
Kanyakumari District.

2. The Sub Registrar,
Sub Registrar Office,
Kanyakumari District,
at Nagercoil.

3. The Executive Engineer,
Tamil Nadu Housing Board,
Sivanthipatti Road,
Thirunelveli.

... Respondents/ Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 04.11.2020 made in W.P.(MD)No.6945 of 2020 and allow this writ appeal by directing the second



respondent to register the deed submitted by the appellant / petitioner with respect to his property in Sy.Nos.N3/4-5, N3/4-5, N3/5-3 of Nagercoil South Village.

For Appellant : Mr.K.P.Narayanakumar,
for Mr.A.Balakrishnan.

For R-1 & R-2 : Mr.G.V.Vairam Santhosh,
Additional Government Pleader.

For R-3 : Mr.A.Kannan,
Standing counsel.

* * *

W.P.(MD)No.474 of 2021

J.Franklin Jose

... Appellant / Petitioner

Vs.

1. The Tahsildar,
Agasteeswara Taluk,
Kanyakumari District.

2. The Executive Engineer,
Tamil Nadu Housing Board,
Sivanthapuram,
Tirunelveli District.

... Respondents/ Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 04.11.2020 made in W.P.(MD)No.3097 of 2020 and allow this writ appeal in the interest of justice.



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For Appellant : Mr.K.P.Narayanakumar,
for Mr.A.Balakrishnan.

For R-1 : Mr.G.V.Vairam Santhosh,
Additional Government Pleader.

For R-2 : Mr.A.Kannan,
Standing counsel.

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COMMON JUDGMENT

(Order of the Court was delivered by G.R.SWAMINATHAN, J.)

Heard both sides.

2. The lands comprised in survey No.N3/4-1, N3/4-5, N3/5-3 belonged to Susaiammal, mother of the appellant herein. This land was included in the acquisition notification issued under Section 4(1) of the Land Acquisition Act, 1894 vide G.O.Ms.No.1213 Housing and Urban Development dated 17.09.1991 and declaration under Section 6 of the Act vide G.O.Ms.No.854 Housing and Urban Development dated 14.12.1992. The appellant's mother did not challenge the acquisition notification.



3. However, some of the other land owners filed writ petitions before the High Court and acquisition proceedings were quashed.

Taking advantage of the said order, a number of persons filed WPs in the year 2013 and 2014. The writ petitions came to be listed for final disposal on 05.09.2017. In the meanwhile, Susaiammal executed settlement deed dated 18.02.2013 (document No.577 of 2013) in favour of the appellant herein. The appellant also filed W.P. (MD)No.19544 of 2013 for forbearing the authorities from proceeding further with the acquisition proceedings pursuant to the earlier notifications. All the writ petitions were disposed of on 05.09.2017 in the following terms:-

“7.The learned counsel appearing for the petitioners, learned Additional Government Pleader appearing for the respondents 1 to 3 as well as the learned counsel appearing for the fourth respondent submitted that the subject matter in dispute has already been decided by this Court in the case in N.Chelladurai v. The Government of Tamil Nadu rep. by the Secretary to Government, Housing and Urban Development Department, Fort St. George, Madras-9 and another reported in 2000 (III) CTC 215 and the impugned acquisition proceedings are quashed on the ground that



Section 5-A of the Tamil Nadu Land Acquisition Act and Rule 4(b) of the Land Acquisition Rules have not been followed and the said order came to be followed in W.P.No.21215 of 1994, vide order, dated 26.03.2004 and also in W.A.No.541 of 2003, vide Judgment, dated 16.06.2016, wherein the Hon'ble Division Bench, by quashing the impugned acquisition proceedings, left it open to the respondents to pursue the acquisition proceedings, if they so choose.

8.In these writ petitions, the petitioners only sought for a mandamus against the acquisition proceedings following the lines of the decided cases, referred to supra. Since, liberty was granted earlier by the Division Bench of this Court as well as in other pronouncements, this Court directs the respondents not to proceed further as per the earlier notification issued under [Section 4 \(1\)](#) of the Land Acquisition Act, in G.O.Ms.No.1213, Housing and Urban Development Department, dated 17.09.1991 as well as declaration issued under [Section 6](#) of the Act, in G.O.Ms.No.854, dated 14.12.1992, with regard to the petitioners properties situated at Nagercoil Village, Agasteeswaram Taluk, Nagercoil Sub-District, Kanyakumari Registration District, Kanyakumari District. The respondents are at liberty to go for fresh land acquisition proceedings, but only in accordance with law.”



4. We wanted to know from the learned Standing counsel for the Housing Board, if this order had been set aside or stayed. It is submitted by the learned Standing counsel that the writ appeal appears to have been filed and it is still at the SR stage. Since the order dated 05.09.2017 made in W.P.(MD)No.19544 of 2013 is still holding the field, we have to proceed on the premise that as on date, the slate stands wiped clean and that there are no acquisition proceedings in the respective subject land also. Once this conclusion is arrived at, the consequence has to follow. The appellant's request for inclusion of his name in the revenue record must be acceded to. Likewise any document presented by the appellant in respect of the said land cannot be refused registration by citing the acquisition proceedings which are no longer in operation. The learned single Judge ought to have taken notice of the fact that the order dated 05.09.2017 passed by the learned single Judge in W.P.(MD) No.19544 of 2013 has not been stayed or set aside.

5. We are clearly of the view that the correctness of the order dated 05.09.2017 cannot be questioned collaterally. In this view of



the matter, the orders impugned in these writ appeals are set aside.

The writ appeals are allowed and the writ petitions are allowed. No costs.

(G.R.SWAMINATHAN, J.) & (M.JOTHIRAMAN, J.)
6th February 2025

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

To:

1. The Revenue Divisional Officer,
Nagercoil Division,
Kanyakumari District.
2. The Sub Registrar,
Sub Registrar Office,
Kanyakumari District,
at Nagercoil.
3. The Tahsildar,
Agasteeswara Taluk,
Kanyakumari District.



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W.A.(MD)NO.473 OF 2021

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AND

M.JOTHIRAMAN, J.

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