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Sujatha Narayanan Vs. the Commissioner and Secretary to Government of Tamil Nadu Housing and Urban Development Department and anr.

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Court : Chennai

Decided On : Oct-28-1998

Reported in : (1999)1MLJ164

Appellant : Sujatha Narayanan

Respondent : The Commissioner and Secretary to Government of Tamil Nadu Housing and Urban Development Department

Judgement :

ORDER

P. Sathasivam, J.

1. It is very unfortunate that the petitioner who parted with her land for extension and development of the Besant Nagar Scheme, armed with two Government Orders, allotting initially a plot in the existing area, namely, Besant Nagar and subsequently at K.K. Nagar, without no fault for her she was not provided with any plot from 1983 to till date.

2. The case of the petitioner is as follows: According to her, she purchased from one Ghulam Mohamood a plot of land in a lay out in S. No. 169/1, Thiruvanmiyur Village in Besant Nagar (a colony promoted by the Tamil Nadu Housing Board) on 9.3.1981. The said plot was 70' by 40' and was priced at Rs. 23,340. She was

served with a notice under Section 4 of the Land Acquisition Act (1 of 1894) by the Special Deputy Tahsildar (L.A.), Tamil Nadu Housing Board on 31.3.1983 stating that her land was required for extension of the Besant Nagar, South Madras Neighbourhood Scheme of the Tamil Nadu Housing Board. The said land was part of a whole area of 2 acres and odd laid out by M/s. Ghulam Mohamood and one Mr. Rajagopal as housing sites. She wrote to the acquisition authority as the proposed land to be acquired from her was the only piece of land owned by her and her husband and was intended to be utilised for putting up a house for their residence. They should be provided with an alternate plot for their residence. Both of them are officials of the Indian Council of Medical Research posted at T.B. Research Centre, Madras. Since the acquisition proposal included a lot of the plots belonging to M/s. Ghulam Mohamood, he appears to have applied to the first respondent to exclude his lands from the acquisition proceedings. The first respondent, accepting the plea of the said Ghulam Mohamood, excluded a major portion of the lay-out promoted by him from acquisition. Only a small portion belonging to the petitioner and some others, who had not sufficient influence to get their lands excluded from the acquisition, were retained in the acquisition proceedings. After knowing that their lands were required for providing a public road (which would have enhanced the value of the plots in the lay-out promoted by Ghulam Mohamood), the petitioner and her husband were regularly corresponding with the respondents about the alternative provision of the plot. Ultimately, the first respondent by G.O.448 of 1985 wherein the first respondent passed orders on 6.5.1988 directing that the petitioner be allotted a plot of the same extent of land as the land taken over from her by the Housing Board. The second respondent, Tamil Nadu Housing Board was requested to take necessary action early on the said Government Order. Unfortunately, the said Government Order was not implemented. She had to send several reminders. On 2.9.86, another communication was issued instructing the Tamil Nadu Housing Board to allot as per G.O. No. 448. Even this was not given effect to till October, 1988. Thereafter, Government Order Ms. No. 1382 was passed allotting plot No. 110 at K.K. Nagar to her. The said order was served on her on 18.10.1988. However, the same was cancelled on 21.10.1988 without assigning any reason. Thereafter, she made another round of representation to the Governor, Chief Minister and officials of the

Housing Ministry and Tamil Nadu Housing Board were started with personal interviews with most of them. It was discovered in the midst of all these activities that their land which was supposed to have been acquired for providing a public road has been allotted to some individuals for their benefits. Even after one year nothing has been done on her representation. She has received a notice from the Special Tahsildar, Land Acquisition, Tamil Nadu Housing Board that she is being given a sum of Rs. 489 for a plot which she purchased for Rs. 23,340. Under these circumstances, having no other effective alternative remedy available to her, she has initially approached this Court by way of a writ of mandamus directing the respondents to restore plot No. 6 in S. No. 169/1, Thiruvanmiyur Village. Subsequently the said prayer has been amended in W.M.P. No. 24057 of 1990, dated 22.10.1990. As per the amended prayer, the petitioner challenges the Government order of the first respondent in G.O.Ms. No. 1421, Housing and Urban Development, dated 21.10.1988.

3. The first respondent even though was duly served with Notice from this Court as early as on 7.11.1990, has not chosen to file counter affidavit disputing various averments made by the petitioner.

4. The second respondent has filed a counter affidavit wherein it is stated that an extent of 1 ground and 0788 sq.ft. of bulk site No. 110 at K.K. Nagar is reserved for residential purpose in the original approved layout. In the subsequent approved part layout, the site was reserved for shop site. But, the said plot has been allotted by the Government in G.O.Ms. No. 1382, dated 18.10.1988 to the petitioner and then the said Government Order was cancelled by another order in G.O.Ms. No. 1421, dated 21.10.1988. It is stated that the provisional and regular allotment order was not issued in favour of the petitioner and no prescribed application form also was received from her. In view of the orders of the Government dated 21.10.1988, the earlier orders dated 18.10.1988 has not been implemented by the Board. The site has been reserved for shop in the part layout approved by the Madras Metropolitan Development Authority. It is further stated that there was no order or stay or prohibition against the respondent/Board, the said plot was auctioned and one N. Vijayakumari has offered the highest bid amount of Rs. 12,35,700 and she has also paid 15 per cent of the highest bid amount. The said

auction proposals have been submitted to the Government for confirmation and the same is pending with the Government. With these averments, the second respondent prayed for dismissal of the writ petition.

5. In the light of the above pleadings, I have heard the learned Counsel for the petitioner as well as respondents.

6. There is no dispute with regard to the purchase of a plot of land in a lay out in S. No. 169/ 1 Thiruvanmiyur Village by the petitioner from one Ghulam Mohamood on 9.3.1981 for the price of Rs. 23,340 as per the Document registered as 775/81 with the office of the Sub Registrar Saidapet. It is the definite case of the petitioner that when acquisition proceedings were initiated and notice under Section 4 of the Land Acquisition Act was issued for extension of the Besantnagar, South Madras Neighbourhood Scheme of the Tamil Nadu Housing Board, the vendor of the petitioner, namely, Ghulam Mohamood made representation to the Government along with one Rajagopal for exclusion of his lands from the purview of the acquisition proceedings. It is stated by the petitioner that a lot of plots belonging to the said Ghulam Mohamood were excluded from the acquisition and only a small portion belonging to the petitioner and some others, who could not influence the respondents, were retained in the acquisition proceedings. It is also clear from the affidavit that since the purpose for which the lands were sought to be acquired was for providing a public road in the Besantnagar Neighbourhood Scheme, she had not challenged the acquisition proceedings, however, made a representation to the Government for providing her an alternative plot. It is also clear that the petitioner and her husband are officials of the Indian Council of Medical Research and they are not having any land or house-site in the City of Madras.

7. After various representations, it is seen that the Government have passed G.O.Ms. No. 448, Housing and Urban Development Department, dated 6.5.1985 wherein they directed the Tamil Nadu Housing Board to allot a plot of the same extent of land taken over from her by the Housing Board in the same area, subject to the collection of development charges as fixed by the Housing Board. The relevant portion from the said Government Order is as follows:

Abstract

Housing - Tamil Nadu Housing Board -S. No. 169/1 Plot No. 6 Thiruvanmiyur
Village - request for exclusion of land - orders issued.

Housing and Urban Development Department

G.O.Ms. No. 448 Dated 6.5.1985

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