

V. Thiraviam Vs. the State of Tamil Nadu Rep. by the Secretary to Government Housing and Urban Development Department and

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Court : Chennai

Decided On : Mar-29-2010

Judge : M. Jaichandren, J.

Acts : [Land Acquisition Act, 1894](#) - Sections 4(1), 6, 11, 23(1A), 23(2), 30, 31(2) and 48B; ;Tamil Nadu Housing Board Act, 1961 - Section 72

Appeal No. : W.P. No. 2506 of 2010

Appellant : V. Thiraviam

Respondent : The State of Tamil Nadu Rep. by the Secretary to Government Housing and Urban Development Department

Advocate for Def. : M. Dhandapani, Special Government Pleader for R1 and; A. Vijayakumar, Adv. for R2

Advocate for Pet/Ap. : S. Kamadevan, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

M. Jaichandren , J.

1. It has been stated that the Government had issued a notification under Section 4(1) of the [Land Acquisition Act, 1894](#), in G.O. Ms. Nos. 1211 and 1212, dated 17.9.1991, proposing to acquire the petitioners' land, in Nagerkoil Village, for the purpose of forming a neighbourhood scheme, for the Tamil Nadu Housing Board. The proposal had been made at the instance of the second respondent Housing Board, which had intended to construct the houses. The petitioners' land situated at Nagerkoil village, Agadeeswaram, Kanyakumari District, were also subject to the acquisition proceedings. After the issuance of Section 4(1) notification, the first respondent had published Section 6 declaration, in G.O. Ms. Nos. 785, and 787, dated 23.11.1992. Pursuant to the Section 6 declaration, an award enquiry had been conducted. Thereafter, an award had been passed, including the petitioners' land. Though the award had been passed, the petitioners had not received the compensation from the respondents, till date.

2. It has also been stated that some of the adjacent land owners, as well as the joint owners of the land, in R.S. No. 2/195, had filed writ petitions before this Court, challenging the land acquisition proceedings. This Court, by its order, dated 15.10.2001, had quashed the land acquisition proceedings, in W.P. Nos. 20850 and 20851 of 1994. The writ appeals filed by the state Government, against the said order, had been dismissed. The appeals filed by the Tamil Nadu Housing Board had also been dismissed. Thereafter, the Housing Board had also granted no objection certificates to the concerned land owners.

3. It had also been stated that a writ petition filed by one of the land owners, in W.P. No. 21216 of 1994, had been allowed on the ground that there was no proper publication in the locality, as provided under the [Land Acquisition Act, 1894](#), it has also been stated that one Kollammal had filed a writ petition, in W.P. No. 21093 of 1994. Though the writ petition had been dismissed on the ground that it had been filed after the passing of the award, the writ appeal filed against the said order, in W.A. No. 3630 of 2004, had been allowed, setting aside the land acquisition proceedings, holding that the award had been passed without complying with the statutory requirements, as contemplated under Section 11 of the [Land Acquisition Act, 1894](#).

4. It had also been stated that the Tamil Nadu Housing Board, is not interested in commencing a neighbourhood scheme, even though it had been proposed long back, in the year, 1991 itself. It is also understood that the Tamil Nadu Housing Board is facing a financial crisis and therefore, the purpose for which the lands had been acquired do not exist any more. In such circumstances, the petitioner in W.P. No. 2506 of 2010, had made a request to the respondent, in his representation, dated 17.3.2008, requesting them to drop the land acquisition proceedings, in respect of the land, in survey No. N3/12-2B of Nagerkoil village, Agastheeswaram, Kanyakumari District and to re-convey the land in terms of Section 48B of the [Land Acquisition Act, 1894](#). By the impugned letter of the first respondent, dated 22.1.2009, the request of the petitioner had been turned down stating that the land in question is proposed to be utilised by the Tamil Nadu Housing Board for implementing the neighbourhood housing scheme, in Nagerkoil.

5. In the counter affidavit filed on behalf of the second respondent, it has been stated that the land acquisition proceedings in respect of the petitioners' land cannot be questioned, as the said land had been acquired for the formation of the neighbourhood scheme for the Tamil Nadu Housing Board. All the necessary formalities prescribed by the provisions of the [Land Acquisition Act, 1894](#), had been followed, scrupulously. It has also been stated that there is no financial crisis, as alleged by the petitioners, for the Tamil Nadu Housing Board, in implementing the scheme. The delay in implementing the scheme is due to certain administrative reasons and due to the cases which had been pending in the various courts of law. The petitioners have no right to demand the dropping of the land acquisition proceedings and for the reconvenes of the land acquired by the state Government, for the purpose of neighborhood scheme of the Tamil Nadu Housing Board. Even if the land acquisition proceedings, in respect of some of the lands, had been set aside, it cannot be said that such orders would apply to the present cases.

6. The learned Counsel appearing for the petitioner had relied on the decision of this Court, in Shanmugam v. the State of Tamil Nadu 2006 (4) CTC 290 in support of his contentions.

7. The learned Counsel appearing for the respondents had relied on the decision of the Supreme Court, in *Tamil Nadu Housing Board v. L. Chandrasekaran and Ors.*, wherein, the Supreme Court, while allowing the civil appeals filed before it, had noted that once a piece of land has been duly acquired, under the Land Acquisition Act, the said land becomes the property of the State. The State can dispose of the property thereafter or convey it to any one, if the land is not needed for the purpose for which it was acquired, only for the market value that may be fetched for the property, as on the date of conveyance.

The Supreme Court had also held that, in exercise of the power, under Section 48-B of the Act, the Government can release the acquired land only till it continues to vest in the Government, and that too if it is satisfied that the acquired land is not needed for the purpose for which it was acquired or for any other public purpose. To put it differently, if the acquired land had already been transferred to another agency, the Government cannot exercise the power, under Section 48-B of the Act and reconvey the same to the original owner. In any case, the Government cannot be compelled to reconvey the land to the original owner if the same can be utilised for any public purpose other than the one for which it was required.

It has also been held that the lands acquired, under the [Land Acquisition Act, 1894](#), for the purpose of the implementation of a scheme, by the Tamil Nadu Housing Board, would vest with the Government. Even after the lands are transferred to the Housing Board it would have no power to dispose of the unutilised lands, in exercise of the power under Section 72 of the Tamil Nadu Housing Board Act, 1961.

It had also been held that Section 48-B of the [Land Acquisition Act, 1894](#), contemplates that the Government, on being satisfied that the lands vested in it are not required for the public purpose for which they were acquired, it may transfer such land, to the original owner, who is willing to repay the amounts paid to him for acquiring the lands including the amounts referred to under Section 23(1-A) and (2) of the Act.

8. In view of the contentions made on behalf of the petitioners, as well as the respondents and on a perusal of the records available, this Court is of the

considered view that the petitioners have not shown sufficient cause or reason to grant the reliefs, as prayed for by the petitioners in the present writ petitions. The land acquisition proceedings, in respect of the petitioners' land, having been completed, as per the provisions of the [Land Acquisition Act, 1894](#), it is not open to the petitioners to claim that the said proceedings are arbitrary, illegal or void. From the records available, it is seen that the first respondent had followed the necessary procedures for the acquisition of the land in question, as per the provisions of the [Land Acquisition Act, 1894](#). After the acquisition of the land in question, in W.P. No. 33502 of 2007, the award had been passed, in award No. 3/94-95, dated 23.11.1994 and the compensation amount of Rs. 13,32,069/ had also been deposited before the Subordinate Court, Nagercoil, under Section 31(2) of the Land Acquisition Act, on reference under Section 30 of the Act for an extent of 4.36 acres of the lands, acquired on behalf of the Tamil Nadu Housing Board, for the neighbourhood scheme. Similarly, in W.P. No. 2506 of 2010, after the acquisition of the land in question, the award had been passed, in award No. 5/94-95, dated 23.11.1994 awarding the compensation amount of Rs. 68,225/-, for an extent of 19.5 cent of the lands, acquired on behalf of the Tamil Nadu Housing Board, for the neighborhood scheme. Though the petitioners had claimed that the some of the land owners had filed a writ petition questioning the land acquisition proceedings and favourable orders obtained by him, it cannot be a ground for the petitioners to claim that the acquisition proceedings, in respect of the land in question, should be dropped and that the land should be reconveyed to them.

9. From the records available, it is found that the land, which had been acquired for the purpose of the neighbourhood scheme, had been handed over to the Tamil Nadu Housing Board, the second respondent herein, and the second respondent is taking steps to implement the said scheme. It has also been stated that the delay in implementation of the scheme is due to the pendency of the cases before various courts of law. In such circumstances, in view of the decisions of the supreme Court in Tamil Nadu Housing Board v. L. Chandrasekaran and Ors. , the writ petitions are devoid of merits, therefore, they are dismissed. No costs. Consequently, connected M.P. No. 1 of 2007 is closed.