

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6481 OF 2002

T. Subramaniam

... Appellant

Versus

State of Tamil Nadu and another

... Respondents

ORDER

This is the second round of litigation by the appellant in the matter of acquisition of his land. Writ Petition No.2749 of 1983 filed by him for quashing Notification dated 17.11.1982 issued by the State Government under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act') for acquisition of land for providing house sites to Adi Dravidars was dismissed by the learned Single Judge of the Madras High Court on 20.8.1983 and Writ Appeal No.970 of 1983 filed by him was dismissed by the Division Bench vide judgment dated 11.6.1991. After 8 years, the appellant filed Writ Petition No.14398 of 1999 for issue of a direction to the respondents to release his land by contending that due to non-utilization of the land for the purpose specified in the notification, the respondents will be deemed to have abandoned the acquisition. The learned Single Judge dismissed the writ petition but gave liberty to the appellant to file an application under Section 48-B of the Act as amended by the State of Tamil Nadu. The Division Bench dismissed the appeal but reiterated that the appellant can move the Government under Section 48-B.

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It is borne from the record that after having failed to convince the High Court to nullify the acquisition proceedings, the appellant approached the concerned local authority and succeeded in securing permission for construction of shopping complex on 2.5 cents of land comprises Survey No.14/2B and constructed the building. Thereafter, he filed Writ Petition No.14398 of 1999 which, as mentioned above, was dismissed by the learned Single Judge, who did not feel convinced with the appellant's plea that failure of the concerned authority to take physical possession of the land amounted to abandonment of the

acquisition proceedings.

During the pendency of the special leave petition, this Court, after taking cognizance of the statement made by the learned counsel for the appellant that his client is ready to offer alternative site to the respondents, passed the following order:

"Learned counsel for the petitioner states, he is offering alternative equal land which the respondents seeking acquisition, which the respondent-State wants to give it to the Advasis. He is seeking time to approach the State Government for its approval. He will file an affidavit to that effect within three weeks and will forward copy to the State government with his representation.

List after six weeks."

As a sequel to the statement made by his counsel before this Court, the appellant did make offer of alternative land but the same was not accepted by the competent authority because the site was far away from the acquired land and was not considered suitable for house sites. The application made by the appellant under Section 48-B of the Act was also rejected by the State

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Government because the major portion of the acquired land had already been allotted to Adi Dravidars and pattas had also been given to them.

Learned counsel for the appellant made strenuous efforts to convince us that failure of the respondents to take possession of the acquired land for a period of more than 9 years amounted to implicit abandonment of the acquisition and, therefore, their refusal to release the land is liable to be nullified with a direction to return the land to the appellant. He also submitted that even if this Court is not convinced with the plea of abandonment of acquisition, the respondent should be directed to release that part of the acquired land on which shopping mall has been constructed by his client by spending Rs.15 lacs.

Learned counsel for the respondents invited the Court's attention to counter affidavits dated 29.6.2001 and 20.1.2003 filed by Smt. P. Shivakami and Shri P. Selvam, respectively, who were holding the post of Secretary to Government, Adi Dravidars and Tribal Welfare Department to show that possession of the acquired land was taken in 1999 and the same was allotted to Adi Dravidars. He then argued that the learned Single Judge and the Division Bench of the High Court did not commit any error by rejecting the plea of abandonment of

acquisition proceedings because the respondents had not only taken possession of the acquired land, but also allotted the same to the beneficiaries. Learned counsel emphasised that the appellant should not be allowed to take advantage of the fact that he has raised construction on a portion of the acquired land because while sanctioning the building plan and granting permission to raise construction, the concerned authority was totally oblivious of the fact that the land

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had already been acquired and the appellant's challenge to the acquisition had been negated by the High Court.

We have considered the respective submissions and scrutinized the records. In our view, the High Court did not commit any error by refusing to entertain the appellant's plea regarding abandonment of the acquisition. The mere fact that the respondents were not able to utilize the land for some years for the public purpose specified in the notification issued under Section 4(1) of the Act cannot lead to an inference that the State Government had taken a conscious decision to give up the acquisition. Rather, the undisputed facts emerging from the pleadings filed before this Court show that possession of the major portion of the acquired land was taken by the competent authority and the same was allotted to the beneficiaries i.e., Adi Dravidars and pattas were also issued in their favour in 2001. The offer of alternative site made by the appellant was not accepted by the competent authority primarily because the site was at a distance of 5 kms. and was found to be wholly unsuitable for house sites. The appellant has not produced any evidence to show that the alternative site is suitable for settlement of Adi Dravidars. Therefore, we do not find any valid ground or justification to direct the State Government to release the land by exercising power under Section 48-B of the Act.

The appellant's attempt to seek sympathy of the Court on the ground that he has already raised construction over a portion of the acquired land sans merit because it is neither his pleaded case nor any evidence has been produced before this Court to show that before sanctioning construction of the building, the

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concerned authority was apprised of the fact that the land had already been acquired. In our view, neither the State Government nor any local authority could

The appeal is dismissed in terms of
signed order placed on the file.

(A.D. Sharma)
Court Master

(Phoolan Wati Arora)
Court Master

(Signed order is placed on the file)