

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9942 OF 2014

(Arising from SLP(C) No.12321/2008)

Chairman & Managing Director, TNHB ..Appellant

versus

Administrator General and Official
Trustee of Tamil Nadu High Court and others ..Respondents

WITH

CIVIL APPEAL NO. 9943 OF 2014

(Arising from SLP(C) No.12943/2008)

O R D E R

Leave granted.

Property belonging to the C.Kandasamy Naidu Trust (hereinafter referred to as the "trust") to the extent of 103 grounds 0736 sq.ft., situated in Survey Nos. 2930/1, 2930/2, 2931 and 2931/1 in the revenue estate of village Purasawalkam in Madras District, was acquired by the State Government for the Tamil Nadu Housing Board. The aforesaid acquisition took place during the years 1985-86. Since the acquired land of the above "trust" remained unutilised, the "trust" sought its reconveyance under Section 48B of the Land Acquisition Act. In determining the prayer of the "trust", the Housing and Urban Development Department vide an order dated 11.09.2006, rejected the claim of the "trust". The reasons for rejection of the prayer made by the "trust" are recorded in paragraph 2 of the order dated 11.09.2006, which are being extracted hereunder:

"2. In this connection, I am to state that an

extent of 125 grounds 2282 sq.ft. of land at Purasawalkam Village, was acquired for implementing Housing Scheme vide Award No.2/88, dated 22.12.1988 and out of the 125 grounds 2282 sq.ft. of land, the petitioner land measuring to an extent of 103 grounds 0796 sq.ft. of land was taken over by Tamil Nadu Housing Board on 28.10.99 and the possession of the above said land is with Tamil Nadu Housing Board. The above lands belong to Kandaswamy Naidu Estate and the issue vested with the official Turstee and the Administrative General/High Court, Madras in his capacity as Executor/Trustee of the will dated 21.5.1948 probated on 5.10.1948 in O.P. No.278/48. But he has not produced any documentary evidence to prove their title over the land. The Pachiappa's Trust has also not produced any documentary evidence to prove their interest over the lands under reference. The registered holders of the land did not appear for the award enquiry. In the circumstances, the ownership could not be determined. Hence, the entire compensation amount of Rs.45,46,024.10 was deposited in the City Civil Court, Madras, under Section 30 and 31(2) of the Land Acquisition Act."

(emphasis is ours)

The rejection of the prayer made by the "trust" vide order dated 11.9.2006 came to be assailed by the Administrative General and Official Trustees of Tamil Nadu, through Writ Petition No. 10475 of 2007, which was filed in the High Court of Judicature at Madras (hereinafter referred to as the 'High Court'). The High Court accepted the prayer of the Administrative General and Official Trustees, and directed for reconveyance of the land acquired from the "trust" vide order dated 20.03.2008. The order dated 20.03.2008 passed by the High Court, is subject matter of challenge at the hands of the State Government, as also, the Tamil Nadu Housing Board, through the present appeals.

Learned counsel for the appellants, placing emphatic

reliance on paragraph 2 of the impugned order dated 11.9.2006 asserted, that the rejection of the claim made by the "trust" under Section 48B of the Land Acquisition Act was premised on the fact that the "trust" could not establish, that the acquired land belonged to the "trust". In the above view of the matter, it was the vehement contention of the learned counsel for the appellants, that the claim of the "trust" was never adjudicated under Section 48B of the Land Acquisition Act. It was therefore the contention of the learned counsel for the appellants, that the High Court misconstrued the impugned order dated 11.9.2006, passed by the Housing and Urban Development Department, by treating it as an order passed on consideration of the claim of the trust under Section 48B of the Land Acquisition Act.

During the course of hearing, we required learned counsel for the "trust" to inform us, whether the details of ownership of the acquired land, as sought by the State Government, were furnished to the State Government by the "trust". Learned counsel for the "trust" very fairly acknowledged, that details thereof, as sought, were not furnished by the "trust" to the State Government. It is therefore apparent, that the claim of the "trust" was not considered on account of the fact that the "trust" had remained remiss in satisfying the State Government, that the acquired land belonged to the "trust" itself.

In view of the above, we set aside the order passed by the High Court. We grant liberty to the "trust" to furnish

particulars of its ownership in respect of the acquired land, to the State Government, within eight weeks from today. The State Government shall thereupon re-consider the claim of the "trust" for re-conveyance of the acquired land under Section 48B of the Land Acquisition Act. Needless to mention that the above consideration will be subject to the condition that the "trust" satisfies the State Government that the acquired land indeed belonged to the "trust".

A considered order shall be passed by the State Government under Section 48B of the Land Acquisition Act within six weeks of the submission of the details by the "trust" to the State Government. Needless to mention that it shall be open to the "trust" to support its claim for reconveyance of the acquired land, by placing reliance on any other provisions of law, as may be available to the "trust".

The instant appeals are disposed of in the aforesaid terms.

.....J.
[JAGDISH SINGH KHEHAR]

NEW DELHI;
OCTOBER 28, 2014.

.....J.
[ARUN MISHRA]

ITEM NO.2

COURT NO.6

SECTION XII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 12321/2008

(Arising out of impugned final judgment and order dated 20/03/2008 in WP No. 10475/2007 passed by the High Court Of Madras)

CHAIRMAN & MANAGING DIRECTOR, TNHB

Petitioner(s)

VERSUS

ADMINIST.GEN.& OFFL.TRUST.OF T.NADU &ORS

Respondent(s)

(with appln. (s) for directions and permission to file additional documents and interim relief and office report)

WITH

SLP(C) No. 12943/2008

(With Interim Relief and Office Report)

Date : 28/10/2014 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE JAGDISH SINGH KHEHAR

HON'BLE MR. JUSTICE ARUN MISHRA

For Petitioner(s) Mr. L.N. Rao, ASG
Mr. Subramonium Prasad, AAG
Mr. M. Yogesh Kanna, AOR(NP)

For Respondent(s) Mr. T. Harish Kumar, AOR(NP)

Ms. N. Shoba, Adv.
Mr. Sriram J. Thalpathy, Adv.
Mr. Vansh Gandotra, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeals are disposed of in terms of the signed order.

(Parveen Kr. Chawla)

Court Master

(Phoolan Wati Arora)

Assistant Registrar

[signed order is placed on the file]