

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-12-2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K.AGNIHOTRI
AND
THE HON'BLE DR.JUSTICE P.DEVADASS

Writ Appeal Nos.2532 to 2534 of 2013
and M.P.Nos.1, 1 and 1 of 2013

- 1.The Government of Tamil Nadu,
Represented by the Secretary to Government,
Backward Classes and Most Backward Classes
Welfare Department,
Fort St. George,
Chennai-9.
- 2.The Special Tahsildar,
(Adi Dravidar Welfare),
Salem.
- 3.The Special Commissioner and
Commissioner of Land Administrative,
Chepauk,
Chennai-5. Appellants in all WAs.

Vs.

P.Jayaraman Respondent in WA 2532/2013
Dr.P.Krishnamurthy Respondent in WA 2533/2013
P.Soundararajan Respondent in WA 2534/2013

Appeals preferred under Clause 15 of Letters Patent against the common order dated 21.7.2009 made in W.P.Nos.16132 to 16134 of 1998 on the file of this Court. WP filed U/A 226 of this constitution of India praying for the issuance of a writ of certiorari to call for the connected records of this third respondent relating to the publication of notification No.VI/(1)/1470/98 for declaration Under section 6 of the Land acquisition Act 1894 (Central Act 1/1894) in the TN Government Gazette part VI SCC 1 (suppliment) dated of 16.09.1998 and pursuant to the publication of the notification U/s.4(1) of the Land acquisition Act 1894 (Central Act 1/1894) in the Tamilnadu

Government Gazette part II Section 2, supplement dated 23.01.1997 of the first reopen to acquire on extent in survey Nos.78/1A2 78/1B2 and 78/1C2 respectively of GajjalNaickenpattai Village, Salem Tk, from holdings the of the petitioner and quash the same in so far as the petitioners are concerned.

For Appellants in all WAS : Mr.P.H.Arvinhpandian,
Additional Advocate General for
Ms.A.Srijayanthi,
Special Government Pleader.

For Respondent in all WAS : Mr.R.Baskar for
Mr.S.S.Thankaswamy

(COMMON JUDGMENT OF THE COURT WAS MADE BY DR.P.DEVADASS, J.)

As these three Writ Appeals are directed as against common order of the Writ Court and common factual matrix is involved, they were heard together and are being disposed of by this common judgment.

2. These three Writ Appeals, at the instance of the respondents/ Government arises out of the common order of the Writ Court dated 21.7.2009 passed in W.P.Nos.16132 to 16134 of 1998 whereunder the Notification under Section 4(1) of the Land Acquisition Act, 1894 and the declaration under Section 6 of the said Act and all consequential proceedings are quashed, giving liberty to the Government to issue fresh notification under Section 4 of the said Act, if the Government so desires.

3. The Government acquired certain piece of lands under the Land Acquisition Act, 1894, situate in Gajjal Naickenpattai Village in Salem District for a public purpose. The said lands belonged to one Padmanabha Chettiyar. His three sons, namely, P.Jayaraman, Dr.P.Krishnamurthy and P.Soundararajan by an oral partition said to have divided the properties among themselves. They have filed the present writ petitions challenging the said land acquisition proceedings. Their details are as follows:-

S.No .	Name of the petitioner	WP No.	Survey No.	Extent of land	Present Writ Appeal No.
1.	P.Jayaraman	16132/1998	78/1A2	0.73.0 Hectares	2532/2013
2.	Dr.P.Krishnamoorthy	16133/1998	78/1B2	0.74.0 Hectares	2533/2013
3.	P.Soundararajan	16134/1998	78/1C2	062.5 Hectares	2534/2013

4. In the Writ Court, they have contended that when the notification under Section 4 (1) of the Land Acquisition Act was made, their father Padmanabha Chettiyar was not alive, the declaration under Section 6 of the Act was not made within one year and no proper publication by tom-tom has been made.

5. The Government repelled the contentions.

6. On 21.7.2009, the Writ Court, by a common order, allowed the writ petitions mainly on the ground that when the notification under Section 4(1) was made, the land owner Padmanabha Chettiyar since was not alive, the notification made as against a dead person is invalid.

7. The learned Additional Advocate General appearing for the appellants contended that already the very same petitioners have filed W.P.No.13139 of 1997, challenging the land acquisition proceedings and on 19.2.1998, their writ petition was dismissed and it was not set aside in a manner known to law, however, again they have filed W.P.Nos.16132 to 16134 of 1998, raising similar contentions, thus, these writ petitions are not maintainable.

8. The learned counsel for the respondents is unable to controvert the said arguments of the learned Additional Advocate General.

9. We have anxiously considered the submissions of the learned Additional Advocate General and the learned counsel for the respondents, perused the orders of the Writ Court dated 19.2.1998 in W.P.No.13139 of 1997, common order dated 21.7.2009

of the Writ Court in W.P.Nos.16132 to 16134 of 1997 and the materials on record.

10. The Writ Appeals are to be allowed on a short point. Earlier the present writ petitioners have filed W.P.No.13139 of 1997 challenging the notification made under Section 4(1) of the Land Acquisition Act, 1894. On 19.2.1998, the said writ petition was dismissed. The said order was not set aside by any Court. Thus, the said order has become final. However, the petitioners in the said writ petition have again filed the three writ petitions, namely W.P.Nos.16132 to 16134 of 1998 for the very same relief and sought for quashment of the proceedings initiated under the Land Acquisition Act. In those writ petitions, they have not at all mentioned the order of dismissal dated 19.2.1998 passed by this Court in the previous writ petition in W.P.No.13139 of 1997. In the circumstances as rightly contended by the learned Additional Advocate General, W.P.Nos.16132 to 16134 of 1998 are not maintainable.

11. Thus, these Writ Appeals are allowed. W.P.Nos.16132 to 16134 of 1997 are dismissed as not maintainable. The common order dated 21.7.2009 of the Writ Court is set aside. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Secretary to Government,
Backward Classes and Most Backward Classes
Welfare Department,
Fort St. George,
Secretariate,
Chennai-9.

2.The Special Commissioner and
Commissioner of Land Administrative,
Chepauk,
Chennai-5.

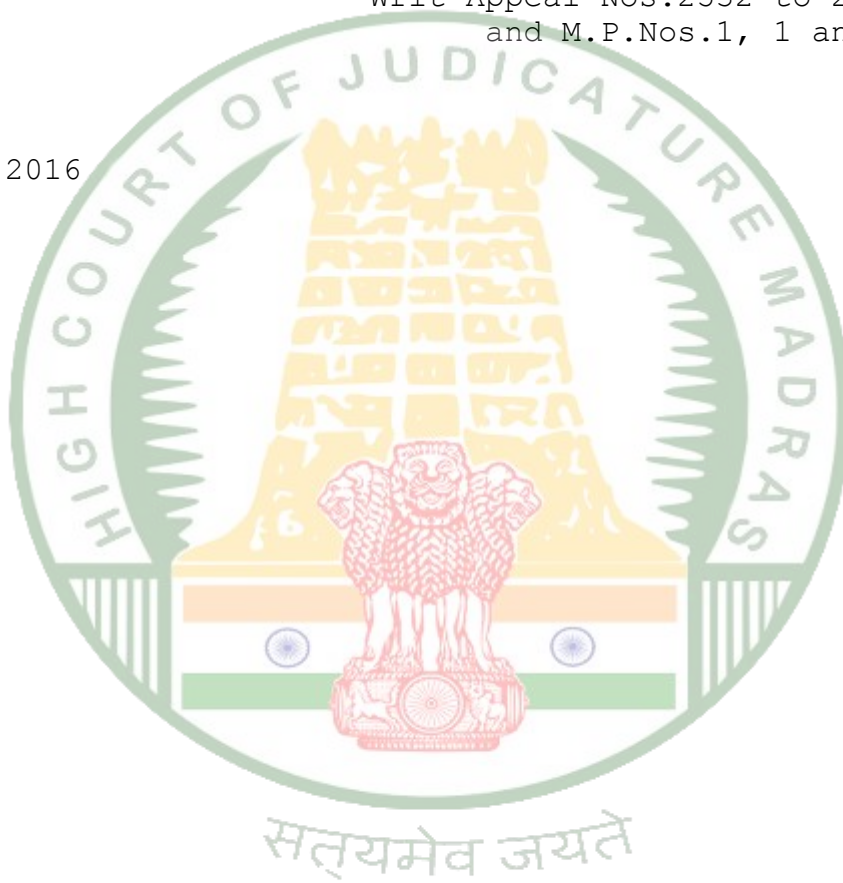
3.The Special Tahsildar,
(Adi Dravidar Welfare),
Salem.

+3 ccs to Mr.S.Thangaswamy, Advocate, sr.68691

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