

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2015

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.2349 of 2012

L.MANOCHARAN

[PETITIONER]

Vs

- 1 THE GOVERNMENT OF TAMILNADU
REP.BY ITS SECRETARY,
LAND ADMINISTRATION DEPARTMENT
FORT ST. GEORGE CHENNAI-9
- 2 THE SPECIAL COMMISSIONER AND
COMMISSIONER FOR LAND ADMINISTRATION
CHEPAUK CHENNAI-5
- 3 THE SECRETARY TO GOVERNMENT
BACKWARD CLASS MOST BACKWARD AND
MINORITY WELFARE DEPT.
FORT ST. GEORGE CHEPAUK
CHENNAI-5
- 4 THE COLLECTOR-VELLORE DISTRICT
OFFICE OF VELLORE DISTRICT COLLECTORATE
VELLORE-632 001
- 5 THE THASILDAR
LAND ACQUISITION ADW WALJABAD
VELLORE DIST.

[RESPONDENTS]

This writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling the records of the letter No.7090/BN2(2)/2011 dated 15.9.2011 of the Secretary to Government, The Backward Class, Most Backward Class and Minority

Welfare Department, the Third respondent herein and quash the same and direct the respondents to withdraw the land acquisition proceedings in so far the petitioner land bearing survey No.497/2 extent 0.12.0 hectare or 0.30 cents at Vadamambakkam Village Arakonam Taluk Vellore District.

For petitioner : Mr.V.Vibhishanan

For respondents : Mr.R.Ravichandran
AGP

O R D E R

Heard the learned counsels appearing for the parties concerned.

2. This writ petition has been filed challenging the impugned letter issued by the third respondent, dated 15.9.2011, and for a direction to direct the respondents to quash the land acquisition proceedings, in respect of the land bearing survey No.497/2, in Vadamambakkam Village, Arakkonam Taluk, Vellore District.

3. It has been stated that the petitioner had purchased the land in survey Nos.497/2 and 497/3, in Vadamambakkam Village, Arakkonam Taluk, Vellore District, having an extent of 1.66 acres, by way of a sale deed, dated 24.6.1982, registered as document No.5009/82, on the file of the Sub Registrar, Arakkonam.

4. It has also been stated that, by family arrangement, the petitioner had become the owner of the said land and he is in possession and enjoyment of the said land, which is abutting the State Highways.

5. It has also been stated that the petitioner had constructed an oil mill, which had been converted into a rice mill, subsequently, and he had got the necessary clearance and the approval from the authorities concerned, as per the relevant provisions of law, including the Rules and Regulations relating to Town and Country Planning.

6. It has also been stated that the entire land having an extent of 1.66 acres, in survey Nos.497 and 497/3, is meant for providing infrastructural water facilities for running of the

mill. While so, the land acquisition proceedings had been initiated in respect of 30 cents, in survey No.497/2, for providing house sites for dhobies, who belonged to the most backward classes. A notification had been issued, under Section 4(1) of the Land Acquisition Act, 1894, and published in the Tamil Nadu Government Gazette, dated 16.3.1994, for the acquisition of the entire land belonging to the petitioner, measuring about 1.66 acres, in survey Nos.497/2 and 497/3. The publication had been done as if the land in survey Nos.497/2 and 497/3 belongs to one Lakshmipathy, the father of the petitioner. Even though the proposal to provide house sites for 72 persons belonging to the most backward classes, the District Collector, North Arcot District, had sent a report to the Government of Tamil Nadu recommending the acquisition of the land for providing house sites for 33 persons only. As there was an error apparent on the face of the records relating to the notification, issued under Section 4(1) of the Land Acquisition Act, 1894, and the declaration made under Section 6 of the said Act, the petitioner had filed a writ petition before this Court, in W.P.No.8109 of 1995. However, the said writ petition has been dismissed.

7. It has also been stated that a number of persons, in whose favour the house sites had been allotted, had sold the house sites, contrary to the conditions relating to such allotments. Further, only 33 persons were listed to be the beneficiaries. Therefore, the acquisition of the land belonging to the petitioner, for allotting house sites to 72 persons belonging to the most backward classes, is arbitrary and illegal. In such circumstances, the petitioner had made a request to the authorities concerned for re-conveyance of the excess land, which had been acquired from the petitioner. The petitioner had also filed a writ petition, in W.P.No.4705 of 2011, praying for a writ of Mandamus to direct the Special Commissioner and Commissioner for Land Administration, Chepauk, Chennai, to pass appropriate orders on the basis of the recommendation made by the District Collector, Vellore District, by his proceedings, dated 12.11.2003. This Court had issued an order, dated 2.3.2011, permitting the petitioner to submit a detailed representation to the State Government and the Special Commissioner and Commissioner for Land Administration, Chennai, for considering the request of the petitioner for withdrawal of the acquisition proceedings, in respect of the land, which had been unutilised for the purpose for which it had been acquired.

8. It had also been submitted that the petitioner is still in possession of the land belonging to him and it had not been utilised for the purpose for which it had been acquired. In such circumstances, the petitioner had submitted a detailed representation, as permitted by this Court, by its order, dated 2.3.2011, in W.P.No.4705 of 2011. However, the Secretary to the Government, Backward class, Most Backward and Minority Welfare Department, Chennai, the third respondent herein, had rejected the request of the petitioner without proper application of mind.

9. It had also been submitted that the third respondent does not have the authority or power to reject the request of the petitioner made in his representation, dated 26.8.2011. In such circumstances, the petitioner has preferred the present writ petition, before this Court, under Article 226 of the Constitution of India.

10. In the counter affidavit filed on behalf of the fifth respondent, the claims made by the petitioner had been denied. It had been stated that the writ petition filed by the petitioner is not maintainable, as the land acquisition proceedings had already been completed and an award had been passed. The relief prayed for by the petitioner, in the present writ petition, cannot be granted. The petitioner has no right to claim the land acquired by the State Government, for the purpose of providing house sites to dhobies belonging to the most backward classes.

11. The learned Additional Government Pleader appearing for the respondents had submitted that the petitioner had filed the present writ petition as an afterthought, after the entire land acquisition proceedings had been completed. The house sites had been allotted to the beneficiaries. The petitioner has no right to claim that the land acquired by the state Government should be re-conveyed to him. As such, the petitioner has not shown any provisions of law for the re-conveyance of the acquired land.

12. In view of the submissions made by the learned counsels appearing for the parties concerned and on a perusal of the records available, it is noted that the land in question, in survey No.497/2, said to be belonging to the petitioner had been acquired, under the relevant provisions of the Land Acquisition Act, 1894. The land had been acquired for providing house sites to dhobies, who are belonging to most backward classes. Further,

the petitioner had not challenged the land acquisition proceedings initiated by the state Government. Pursuant to the land acquisition proceedings initiated by the state Government, the land belonging to the petitioner had been acquired and the land had been allotted to various persons belonging to most backward classes, as house sites. While so, it would not be open to the petitioner to claim that the unutilised portions of the land should be returned to the petitioner, at this stage.

13. It is not in dispute that the land had been utilised for providing house sites to dhobies, who belong to most backward classes. Even the sale of such house sites, by some of the beneficiaries, would not nullify the land acquisition proceedings, in any manner. As such, this Court is of the considered view that the present writ petition, filed by the petitioner, is devoid of merits. Hence, the writ petition stands dismissed. No costs. Connected M.P.Nos.1 and 2 of 2012 are closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

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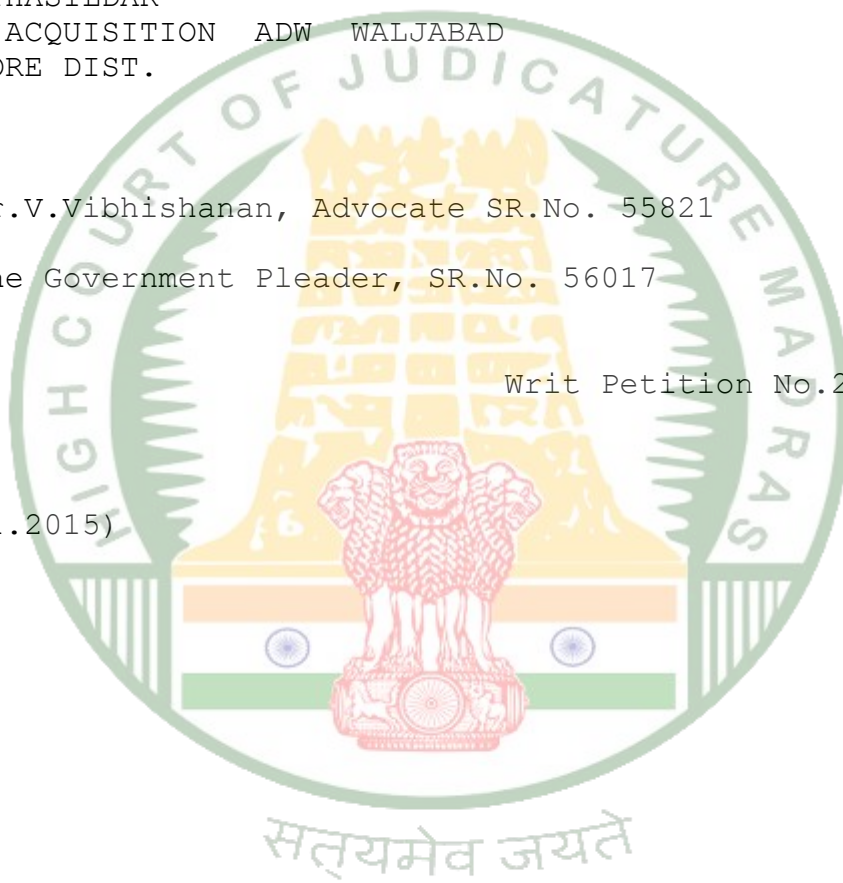
5 THE THASILDAR
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VELLORE DIST.

1 CC to Mr.V.Vibhishanan, Advocate SR.No. 55821

1 CC to the Government Pleader, SR.No. 56017

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PA (CO)
PSI (19.11.2015)



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