

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :01.03.2016

Coram

The Hon'ble Mr.Justice T.S.SIVAGNANAM

Writ Petition No.34752 of 2012

M.P.Nos.1 of 2012 and 1 of 2013

Arokiyasamy

...Petitioner

Vs.

1. The Secretary to Government,
Industries Department,
St.George Fort,
Chennai - 600 009.
2. The Managing Director,
Tamil Nadu Explosive Limited,
No.735, LLA Building,
Ist Floor, Anna Salai,
Chennai - 600 002.
3. The General Manager,
Tamil Nadu Industrial Explosives Limited.
TEK Post Office, Katpadi,
Vellore - 632 059.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Mandamus to forbear the respondents, their Officials, Subordinates, agents, staffs, men, henchmen, or any other person claiming any rights through them, from interfering with the petitioner's peaceful possession and enjoyment of the property, comprised in S.No.25/1, admeasuring to an extent of 50 cents, situate at Tharapadavedu Village, Kadapadi Taluk, Salem District, except by invoking the provision of Land Acquisition Act, 1894.

For Petitioner : Mr.B.Vijay
For Respondent-1 : Mr.R.Rajeswaran
Special Government Pleader

For Respondents 2and3 : Mr.K.V.Subramanian
for M.A.Abdul Wahab

O R D E R

This Writ Petition has been filed for the following relief:-

For issuance of Writ, in the nature of Mandamus, forbearing the respondents or any men claiming through them from interfering with the petitioner's peaceful possession and enjoyment of the property, comprised in S.No.25/1, measuring an extent of 50 cents, situate at Tharapadavedu Village, Kadapadi Taluk, Salem District, except, by invoking the provisions of Land Acquisition Act, 1894.

2. Heard the learned counsel appearing for the respective parties.

3. Admittedly, the lands have been acquired for an establishment of third respondent's Factory, which is wholly owned by the Government of Tamil Nadu. The petitioner has neither challenged the notification issued under Section 4 (1) of the Land Acquisition Act, 1894 (hereinafter, referred to as 'the Act') nor the declaration issued under Section 6 of the Act, and not even the award passed by the Land Acquisition Officer, dated 19.12.1986. When the lands have been acquired and fully utilized for the aforesaid purpose, the question of issuing Writ of Mandamus, as sought for herein, cannot be granted. Accordingly, the Writ Petition is dismissed. At this juncture, the learned counsel appearing for the petitioner submits that the total extent of land covered in Survey No.25/1, is 2.68 acres, and in terms of the abovesaid award, only 2.02 acres have been acquired from one Captain Balraj, and therefore, there is a remaining extent of land, measuring 0.66 acres. However, this plea is absolutely far fetched and the learned counsel cannot raise such plea by just referring to the award, without challenging any of the proceedings initiated under the provisions of the Act. However, if the petitioner claims for any right against the vendor, it is open to him to approach appropriate forum.

4. In the result, the Writ Petition is dismissed, as stated above. Consequent to the dismissal of the Writ Petition, the order of interim injunction is vacated. Accordingly, M.P.No.1 of 2012 (viz., the injunction petition) is dismissed, and M.P.No.1 of 2013 (viz., the Vacate Stay Petition) is ordered. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
Industries Department,
St.George Fort,
Chennai - 600 009.
2. The Managing Director,
Tamil Nadu Explosive Limited,
No.735, LLA Building,
1st Floor, Anna Salai,
Chennai - 600 002.
3. The General Manager,
Tamil Nadu Industrial Explosives Limited.
TEK Post Office, Katpadi,
Vellore - 632 059.

+1cc to M/s. K.V. Subramanian, Advocate, S.R.No.13104
+1cc to Mr.B. Vijay, Advocate, S.R.No.13070

SV(CO)
EU(10/03/2016)

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