

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2016

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.A. No.279 of 2016 & C.M.P. No.4547 of 2016

1 T. Nandhagopal
2 B. Devi
3 A. Sundari
4 S. Parthasarathy
5 R. Manochozan

6 Vishnu Saw Mill
Villupuram Main Road
Villianur Thanda Chady
G.N. Palayam
Villianur
Pondicherry - 605 110

7 K. Suganya
8 S. Jothi
9 P. Dinakaran

Appellants

1 The Collector
Villianur District
Pondicherry

Vs.

2 The Sub Collector (Revenue) cum Land Acquisition Officer
Villianur District
Pondicherry

3 The Executive Engineer
National Highways Department
Public Works Department
Pondicherry

4 The Government of Pondicherry
Pondicherry

Respondents

Writ Appeal preferred under Clause 15 of the Letters Patent challenging the order dated 28.01.2016 passed in W.P. No.7070 of 2010.

Petition filed under article 226 of the Constitution of India Praying to issue a Writ of Certiorari to call for the entire records of the second Respondent in No.616/DCRS/LA/U/2004/B1 in Award No.5/2009 dated 16.11.2009 and quash the same since the entire land acquisition proceedings of the petitioners lands has lapsed in view of not adhering to the conditions stipulated in Section 11A and section 17(3A) of the Land Acquisition Act 1894.

For appellants :Mr. P.J. Rishikesh

For respondents:Mr. M. Govindaraj
Government Pleader (Puducherry)

JUDGMENT

(delivered by SATISH K. AGNIHOTRI, J.)

This intra-Court appeal is focussed against the order dated 28 January 2016 passed in W.P. No.7070 of 2010.

2 To avoid prolixity, the parties are referred to as per their arraignment in this intra-Court appeal.

3 The facts in brief leading to the filing of this intra-Court appeal are that the appellants filed the writ petition being W.P. No.7070 of 2010 calling in question, the justifiability of the award dated 16 November 2009 passed by the second respondent on the ground that entire land acquisition proceedings qua his land has lapsed in view of not adhering to the conditions stipulated in Sections 11-A and 17(3-A) of the Land Acquisition Act, 1894 (for brevity "the Act"). The learned Single Judge, holding that the land acquisition proceedings has lapsed, directed the respondents to issue a fresh notification for acquisition of land, besides the appellants to surrender possession of the land in question to the respondents so as to enable the project of public importance to proceed further. Feeling aggrieved by the said order, the appellants are before us.

4 The appellants' only contention is that after having declared that the land acquisition proceedings has lapsed, the learned Single Judge committed an error in directing them to surrender possession of land to the respondents.

5 The main plank of argument of the learned counsel for the appellants is that having accepted the appellants' contention that the respondents had not adhered to the conditions stipulated in Section 11-A and 17(3-A) of the Act and having held that the land acquisition proceedings stood lapsed and also having issued a direction to the respondents to issue a fresh notification in respect of the land in question, the direction to the appellants to surrender possession of the land to the respondents, is excessive and without jurisdiction.

6 The learned Government Pleader appearing for the respondents submits that the land in question is required for construction of by-pass road and as such, keeping public interest in mind, such a direction was issued by the learned Single Judge. Thus, the said direction warrants no interference.

7 Be that as it may, once the land acquisition proceedings is held as lapsed or illegal, no direction can be issued to the land owner to surrender the land without initiating a fresh acquisition proceedings. No doubt, it is true that in matters of land acquisition, public interest is of utmost importance rather than the interest of the individuals. But, at the same time, without acquiring the land in accordance with law, the land owner cannot be forced to sacrifice his land, inasmuch as he is entitled to a fair compensation and also to question the acquisition proceedings in accordance with law.

8 In such view of the matter, we are of the considered opinion that the direction given by the learned Single Judge to the appellants to surrender the land to the respondents, after having declared the land acquisition proceedings as lapsed or invalid, is unsustainable in the eye of law. Accordingly, the direction given by the learned Single Judge to the appellants to surrender possession of the land is set aside.

The writ appeal stands disposed of accordingly. Costs made easy. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

- 1 The Collector,
Villianur District,
Pondicherry.
- 2 The Sub Collector (Revenue) cum Land Acquisition Officer,
Villianur District,
Pondicherry.
- 3 The Executive Engineer,
National Highways Department,
Public Works Department,
Pondicherry.
- 4 The Government of Pondicherry,
Pondicherry.

+9cc to Mr.M.Narayanasamy, Advocate, S.R.No.16911[31/03/2016]
+1cc to the Government Pleader, S.R.No.16917

W.A. No.279 of 2016

lrs(CO)
srg(29/03/2016)



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