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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 06.01.2017
CORAM:

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO
and
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Rev.APLC(MD) No.91 of 2016
in W.A.(MD) No.1200 of 2016

1.R.Ilangovan
2.Singammal

... Petitioners/Appellants

Vs.

1. The District Collector,
Sivagangai District,
Sivagangai.

2.The Special Tahsildar,
Adi Dravidar Welfare,
Devakottai,
Sivagangai District.

3.The Tahsildar,
Taluk Office,
Karaikudi,
Sivagangai District.

... Respondents/Respondents

PRAYER: This Review Application is filed under Order 47 Rule 1 and 2 Section 114 of C.P.C. To review the order dated 22.08.2016 made in W.A.(MD) No.1200 of 2016 and all allow this Review Application.

Prayer in WP(MD). 9788/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue an order or a direction in the nature of WRIT OF DECLARATION declaring that the 1st respondent 4(1) Notification dated 26.12.1995 in respect of the petitioners land deemed to have been lapsed in respect of land in S.No.145/1A in an extent of 0.09.0 out of 1.24 acres and 145/1B in an extent 0.09.0 out of 0.85.0 acres in Vettaikaranpatti village, Karaikudi Taluk, Sivagangai District.

Prayer in WA(MD). 1200/ 2016 :

Appeal filed under clause 15 of the Letter Patent against the order of this Court dated 01/03/2016 passed in WP(MD)NO.9788 of



For Petitioners : Mr.J.John
For Respondents : Mr.Aayiram K.Selvakumar
Government Advocate

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O R D E R

(Order of this Court was delivered
by NOOTY.RAMAMOHANA RAO, J.)

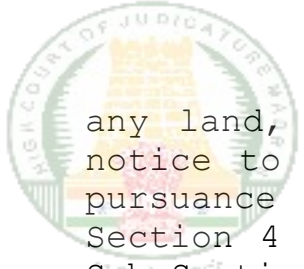
One of the contentions, which is advanced before us, when we dealt with W.A.(MD) No.1200 of 2016 is that in view of the provisions contained under Section 24 of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the proceedings, which have been initiated under the provisions of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978, (Tamil Nadu Act 31 of 1978), are liable to be declared as lapsed.

2. We have, in the course of the judgment, pointed out that pre-requisite conditions specified under Section 24 of the Central Act, having not been satisfied for a declaration to be issued that the land acquisition proceedings, initiated under the State Act, are said to have lapsed, we dismissed the Writ Appeal.

3. Now, the learned counsel for the review petitioner would urge that it is no doubt true that the lands of the appellants were acquired under the Provision of the State Act 31/1978, but, however, the award in respect thereof was passed by an incompetent authority namely, the Tahsildar (Land Acquisition) whereas, it is the District Collector, who is the competent authority, has to pass such an award. Since the District Collector has not passed any such award, it is liable to be construed that there is no award passed in accordance with law and hence, those proceedings are liable to be declared to have lapsed by virtue of Section 24 of Central Act of 2013.

4. The learned counsel, in support of his plea, has also placed reliance upon the judgment rendered by the learned single Judge, Hon'ble Justice **Mr.F.M.IBRAHIM KALIFULLA**, in **K.R.Lakshminarasimhan Vs. the State of Tamilnadu, represented by the Secretary to Government, Adi Dravidar Welfare Department, Fort St.George, Madras - 9** reported in **2004 Writ L.R. 395**.

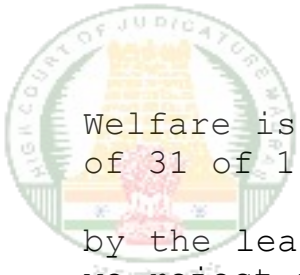
5. Before we proceed further, we need to notice the salient features contained in Sections 4, 5 and 7 of the Act 31 of 1978. Section 3 of that Act defined various expressions found in that Statute. Clause-J thereof, defined 'prescribed authority' as meaning any authority or Officer authorized by the Government in this regard, by notification. Section 4 conferred power to acquire the land. Where the District Collector is satisfied for the purpose of any Harijan Welfare Scheme, it is necessary to acquire



any land, he may do so by publishing in the District Gazette a notice to that effect that he has decided to acquire the land in pursuance of this Section. Provision under Sub-Section (2) of Section 4 thereof required that, before publishing a notice under Sub-Section (1) of Section 4, the District Collector or any Officer authorized by the District Collector in this behalf, shall call upon the owner or any other person, who may be interested in such land, to show cause why the said land should not be acquired and thereafter, under Sub-Section (3) of Section 4, the District Collector is required to consider the objections raised if any and pass an appropriate order either to proceed further and notify the acquisition under Sub-Section (1) of Section 4 or to drop the further proceedings. Under Section 5 of this Act, when a notice under Sub-Section (1) of Section 4 is published in the District Gazette, the land to which the said notice relates shall, on and from the date on which the notice is so published, **vest absolutely in the Government** free from all encumbrances.

6. Section 7 deals with the determination of amount payable in respect of any such land acquired. Sub-Section (2) of Section 7 thereof sets out that in addition to the market value of the land the prescribed authority shall, in every case, award a sum of fifteen per centum on market value as solatium in consideration of the compulsory nature of the acquisition. Under Sub-Section (3) of Section 7 the prescribed authority shall, after holding an enquiry in the prescribed manner, determine, by order, the amount payable under Sub-Section (1). It is, thus, clear that under Section 4 of this Act, the District Collector has to satisfy himself that the land in question is required to be acquired. Only thereafter, he should publish notice on acquisition. And, once such notification gets published, the land (s) so notified shall stand vested in the State Government.

7. Under Sub-Section (1) of Section 7 the task of determining the amount of compensation payable for the land so acquired has been entrusted to the prescribed authority. In the judgment, over which the learned counsel for the petitioner sought to place reliance, it was brought out that through G.O.Ms.No.1628 dated 21.09.1979 and the amended notification in G.O.Ms.No.97 dated 08.02.1980, the State Government declared the Special Tahsildar, Harijan Welfare, as the "Prescribed Authority", as per Section 3 (J) of the Act. It is, thus, clear to us that it is the Special Tahsildar, who is the competent authority, to determine the amount of compensation payable for the land acquired under Sub-Section (1) of Section 7, in accordance with law. Therefore, the contention canvassed by the learned counsel for the review petitioner that the District Collector, having not determined the amount of compensation payable for the land acquired, but the same having been determined by the Special Tahsildar, Harijan Welfare, no award, in the eye of law, is passed with regard to the land in question, is without any merit. The award passed by the 'prescribed authority', namely, the Special Tahsildar, Harijan



Welfare is a valid piece of award in terms of Section 7 of the Act of 31 of 1978.

8. We see no reason to accept the contentions raised by the learned counsel for the review petitioner before us. Hence, we reject the same.

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9. The Review Application is not meant for one to indulge in a re-hearing or for canvassing about the correctness of the conclusion drawn in an earlier judgment. It is meant for the purpose of correction of error apparent on record. The error apparent on record cannot be quoted to that of an error of judgment. We see no reason to entertain this review application and, accordingly, the Review Application stands dismissed.

SD/-

ASSISTANT REGISTRAR (RTI)

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SUB ASSISTANT REGISTRAR

To

1. The District Collector, Sivagangai District, Sivagangai.

2. The Special Tahsildar, Adi Dravidar Welfare, Devakottai, Sivagangai District.

3. The Tahsildar, Taluk Office, Karaikudi, Sivagangai District.

+1 CC TO MR. SPECIAL GOVERNMENT PLEADER, SR NO.1971

MAS/SV-MMS:14.02.2017:4P/5C

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