

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.10186 of 2004  
and  
W.P.M.P.No.11854 of 2004  
&MPMP.No.11855/2014  
and W.M.P.No.24948 of 2017

M/s.Vishnu Paper Products (P) Ltd.,  
represented by its Executive Director,  
S.Nanthikeswaran,  
having its office at No.19, 1st Floor,  
Balaji Avenue, 1st Street,  
T.Nagar, Chennai-600 017. ... Petitioner

Vs.

1. The District Collector,  
Villupuram District,  
Villupuram.
2. The Land Acquisition Officer-cum-  
Special Tahsildar (Adi Dravidar Welfare),  
Tindivanam,  
Villupuram District. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records comprised in Notification No.M1/35334/2001, dated 10.06.2003, published in the District Gazette No.4, dated 23.02.2004 in Form-III, dated 10.03.2004 and the consequential Notice in Na.Ka.No.A/613/2000, dated 06.04.2004 on the file of the second respondent and quash the same.

For petitioner : Mr.K.Rajsekar  
For respondents : Mr.S.Diwakar, Spl.G.P.

ORDER

The petitioner has come forward with this Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records comprised in Notification No.M1/35334/2001, dated 10.06.2003, published in the District Gazette No.4, dated 23.02.2004 in Form-III, dated 10.03.2004 and the consequential

Notice in Na.Ka.No.A/613/2000, dated 06.04.2004 on the file of the second respondent and quash the same.

2. The case of the petitioner is that the entire land belonging to the petitioner is sought to be acquired by the respondents and that the acquired portion runs through the petitioner's land which bifurcated the entry and that the paper industry that is situated there would be affected. The petitioner stated that he has invested nearly Rs.6 crores and 100 people are employed in the paper industry. It is further stated that the petitioner received notice, dated 28.07.2003 from the second respondent, stating that the land is going to be acquired in terms of Rule 3(i) of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Rules. According to the petitioner, an extent of 25 cents of land belonging to the petitioner, may not be acquired for the purpose of connecting the road for Adi Dravidar houses. It is further stated that there is a pathway going to a place where Adi Dravidar people are living and that the acquisition in the middle of the property, is not correct.

3. It is further stated by the petitioner that the petitioner has requested the second respondent for spot inspection which the second respondent agreed, however, he did not turn up. There was no inspection. However, brushing aside the objections, the Notification was issued under Section 4(1) of the Tamil Nadu Acquisition of Lands for Harijan Welfare Schemes, Act, 1978 and that the property is going to be acquired and the petitioner was asked to appear on 26.03.2004 for enquiry. On that day, the representative of the petitioner appeared who has explained about the availability of an alternative route/pathway for six huts for whose purpose the land is sought to be acquired. It is also stated that the proposed connecting road will be cutting across the middle of the factory's land of the petitioner and it would cause great hardship. The petitioner further stated that the impugned notice dated 06.04.2004 from the second respondent was received stating that the land has already been acquired and that the owner can appear for collecting the amount of compensation. According to the petitioner, the action of the respondents is arbitrary and illegal and that there were six huts for Adi Dravidars for which a separate road is there and that the respondents have not considered the request of the petitioner in proper perspective with regard to the erroneous acquisition of land in the middle of the factory. It is further stated by the petitioner that there is an alternative pathway and that there are Government lands through which the road can be laid. It is further stated by the petitioner that the land of the petitioner is meant for further expansion and if the land is going to be taken from the middle of the side where the petitioner's factory is situated, they will be put to great hardship.

4. The second respondent has filed counter affidavit stating that the land in R.S.No.179/2B 0.13.0 Hectares and R.S.No.180/2A1 0.09.0 hectares, totalling 0.22.0 hectares, were proposed to be acquired for the purpose of Adi Dravidar Welfare Scheme for providing link road to Valluva Pandaram colony of Semangalam Village. A Notification was issued by the Collector, which was published in the District Gazette on 23.02.2004. It is not correct to state that only six families are living and there are 15 families residing without any pathway and it has necessitated the State to acquire the lands for providing the said link road. The petitioner was given due opportunity and the acquisition proceedings have taken place in accordance with law. It is further stated that as the land is required for the purpose of providing link road, an extent of 0.22.0 hectares had been sought to be acquired.

5. The petitioner has filed reply affidavit stating that the petitioner-Company is manufacturing kraft paper-eco friendly pollution free product for the last 18 years and the entire area is covered with 90 feet frontage only. The proposed link road cuts across the middle of the Company, which would result in the operation of the industry standstill and the livelihood of more than 100 employees will be affected. It is further stated by the petitioner that the petitioner-Company had been manufacturing eco-friendly papers as per the conditions laid down by the Tamil Nadu Pollution Control Board. It is further stated that the petitioner-Company has planted coconut, mango and other trees and also cultivate paddy around the industry and that the Effluent Treatment Plant (ETP) is also installed near the proposed acquisition place. In the entry to the industry, there is HT line Transformer installed for supply of electricity to the industry and due to HT line, the transformer is positioned in the front side only. Hence, it is incorrect to state that there is no hindrance to running of the industry. It is also stated that there is also a 25 Feet Anjeneyar and 5 Feet of Vishnu and also a Vishnu Ganapathi Temple in the front side of the building. It is also stated that there is discrepancy in the extent of land which is mentioned in the counter affidavit, and that the declaration under the provisions of the said Act is dated 19.02.2004 and it was published in the District Gazette, dated 23.02.2004. Learned counsel for the petitioner stated that the copy of the report of the Tahsildar, has not been furnished to the petitioner and without furnishing the said copy, the Collector has passed an order, which is in total non-application of mind.

6. Heard both sides and perused the materials available on record.

7. It is not in dispute that the land in question belongs to the petitioner and that there were acquisition proceedings. It is true that the Collector has satisfied himself based on the report of the Tahsildar. Though it has been stated that the copy of the report of the Tahsildar has not been furnished to the petitioner, it is not mandatory that the copy of the said report should be given, but however, if prejudice is shown, the Collector will have to decide into the issue. The Collector has passed an order after considering the report of the Tahsildar and without furnishing a copy of the same to the petitioner, though furnishing of the copy of the said report is not going to prejudice the petitioner, a detailed order has been passed as to how the Collector has satisfied in acquiring the land(s).

8. It is stated by the learned Special Government Pleader appearing for the respondents that no damage would be caused to the land and building of the petitioner-Company which are situated, but however, the lane will run adjacent to the compound wall. Though the Collector has satisfied himself before acquisition of the land of the petitioner, the prejudice caused to the petitioner has not been considered by the Collector independently, de-hors the report of the Special Tahsildar. The drawing produced by the respondents in Page 159 of the files produced before this Court makes it clear that the land that is sought to be acquired, is in the middle of the property of the petitioner. The drawing produced by the petitioner also clearly shows that there is alternative way to reach the place where the Harijans/Adi Dravidars are residing. Merely because the Harijans/Adi Dravidars have to travel 2 Kms. and that the land is acquired for the purpose of a short way, it may not be a ground to uphold the acquisition proceedings. For example, if a hospital is situated and that the same has got to be cut across and that there should be a road for the public to have access to the hospital, certainly, this Court would have accepted the contentions of the respondents. That is not the case here. That is not the purpose of the land acquired now and it is for the Harijan Welfare Scheme and no prejudice is going to be caused to the respondents, if they reach the tenements in a round about way and that admittedly, the Government's land is there and pucca road is also available. The contention that there should have been a provision for link road to enable the tenements to reach their residence quickly, cannot be a ground for acquiring the property of the petitioner, more particularly, in the middle of the property of the petitioner.

9. The satisfaction of the Collector, de-hors, the report of the Special Tahsildar, cannot be construed as a valid one, and this Court is of the view that the acquisition proceedings have got to be interfered with. It is open for the respondents to lay pucca road based on the drawings provided in their files and also in the typed set of papers filed along with this Writ

Petition to enable the tenements for whose purpose originally the land was acquired and reach the respective places.

10. With the above observations, the Writ Petition is allowed. No costs. W.P.M.P. and W.M.P. are closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,  
Villupuram District,  
Villupuram.

2. The Land Acquisition Officer-cum-  
Special Tahsildar (Adi Dravidar Welfare),  
Tindivanam,  
Villupuram District.

+1 cc to Govt Pleader sr 77941

+2 cc to M/s.K.Rajsekar Advocate sr 77628 dt:12/12/2017

W.P.No.10186 of 2004

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aa22/11/2017

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