

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.12.2017

CORAM:

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.A.No.944 of 2016
and CMP.No.12210 of 2016

1.K.R.S.Mohanraj (Deceased)
2.M.Kalaiselvi
3.M.Varun
4.Shanmugham
(Appellants 2 to 4 brought on record as LRS of
the deceased Sole appellant vide order of Court
dt:31.10.2017 by KKSJ & PVJ made in
CMP No.18446/2017 in WA.No.944/2016)

Vs

1.District Collector,
Coimbatore District,
Coimbatore - 641 018.

2.Special Tahsildhar - Adidraavidar Welfare,
(Land Acquisition officer),
District Collectorate,
Coimbatore - 641 018.

..Respondents

Writ Appeal filed under clause 15 of Letters Patent
against the order of this Court dated 06.01.2016 made in
W.P.No.34000 of 2007.

Praying this court for issuance of court of Certiorarified to
Call for the records of the 1st respondent herein relating to
the Notification under sec.4 (1) of the Tamilnadu Acquisition of
Lands for Harijan Welfare Schemes Act 1978 (Tamil Nadu Act 31
of 1978) published in the Coimbatore District Gazette
(Extraordinary) No.11 dt 18.7.1998 in so far as it relates to
the lands of thepetitionoer in S.Nos.296/1 measuring 0.62.05
hectares in Kuniamuthur village Coimbatore South Taluk and
District quash the same.

For Petitioners : Mr.A.S.Vijayaragavan

For Respondents : Mr.A.Sreejyanthi

JUDGEMENT

(Judgment of the Court was delivered by P.VELMURUGAN, J.)

This Writ Appeal has been filed by the appellant challenging the order of this Court dated 06.01.2016 made in W.P.No.34000 of 2007.

2.The case of the appellants is that the first appellant deceased K.R.S.Mohanraj, had purchased the subject matter of the land in the year 1976 under a registered sale deed and he was in possession and enjoyment of land and he is cultivating the said land. Whiles, in the month of October 2007, the second respondent had inspected the subject land for acquiring the same in order to provide house sites to the Adi Dravidas under the Harijan Welfare Schemes. When enquired about the acquisition, the appellant was informed that a proceedings under Section 31 of Tamil Nadu Act was initiated in the year 1997 and no notice was served on him before the acquisition or during the acquisition. The appellant came to know that a notice was served to a third party for the land comprising in S.F.No.296/1 of Kuniyamuthur Village, who is not the owner of the land. The appellant was neither aware of the land acquisition proceedings nor any notice has been issued to him under Section 4(1) of Tamil Nadu Act for acquisition of land under the Harijan Welfare scheme, which is illegal. Hence, the appellant challenged the land acquisition proceedings by filing a writ petition No.34000 of 2007, before this Court.

3.The learned Single Judge after hearing the arguments of both sides had dismissed the writ petition by an order dated 06.01.2016. Aggrieved against the order passed by the learned Single Judge, the writ petitioner has preferred this present writ appeal. During the pendency of the Writ Appeal, the sole appellant died. Hence, the legal heirs of the sole appellant K.R.S.Mohanraj have been brought on records and they continued the writ appeal.

4.Heard the learned counsels appearing on both sides.

5.The learned counsel for the appellants would submit that the first appellant is sole and absolute owner of the land situated in S.F.No.269/1 of Kuniyamuthur Village, Coimbatore South Taluk and District, measuring 0.62.5 Hectares. He purchased the land from one Sellappa Gounder, son of Subbanna Gounder under a registered sale document No.191 of 1940. The said land was being cultivated by the appellants. In the year 2007, the first appellant came to know that the land was acquired by the respondents, who are responsible officers for construction of house sites to Adi Dravidars. He further came

to know that a proceedings under Tamil Nadu Act 31 was initiated in the year 1997 and no notice was served to him under Section 4 (2) of the Tamil Nadu Act 31 of 1978 at the time of acquisition. His name was not found in the notification under Section 4(1) of Tamil Nadu Act 31 of 1978 and also no notice under Rule 5(1) of Tamil Nadu Land Acquisition of Land for Harijan Welfare Scheme Rules 1979, was served to him and also no award was served. However, the acquisition proceedings was served to the third party, who is not a land owner. Therefore back behind of him, his land was acquired. He further submitted that he came know that the first respondent served notification under Section 4(1) of the Tamil Nadu Act, on 02.07.1998 and published the same in the Coimbatore District Gazette (Extraordinary) No.11, dated 18.07.1998 and the second respondent had also initiated proceedings for award enquiry 1999. He was not aware of the entire proceedings initiated to his land to the extent of 0.62.5 Hectares in S.F.No.296/1, Kuniamuthur Village, Coimbatore South Taluk. Since, no notice was given to him and his name was also not found in the Section 4(1) notification and also no notice was served for the award enquiry, the acquisition is null and void. Therefore, he filed the writ petition. The learned single Judge has failed to consider that he is the owner of the property and no notice was served on him and the acquisition was made and proceedings taken against him are illegal and dismissed the writ petition. Aggrieved by the said order, he has preferred this writ appeal.

6.Per Contra, the learned counsel for the first respondent would submit that based on the representation of the poor Adi Dravidars, the first respondent-District Collector, Coimbatore, initiated land acquisition proceedings under Tamil Nadu Acquisition Act 31 of 1978 to provide house sites to the land to the house less Adi Davidars residing in and around Kulathupalayam Hamlet of Kuniamuthur Village, Coimbatore South Taluk. It was proposed to acquire an extent of 2.47.0 Hectares of lands in S.No.296/1 and 296/2 of Kuniamuthur Village, Coimbatore South Taluk, Coimbatore District. As per the village accounts, the lands in S.No.296/1, 0.62.5 Hectares stands in the name of Tmt.Ranganayakiammal and Tmt.Velakkal and in S.No.296/2, 1.84.5 Hectares stands in the name of Tmt.Ranganayakiammal. A notices under Section 4(2) of the Act was issued to the land owners on 17.09.1997. The above notice were served to one Thiru.Purushothaman, S/o.Tmt.Ranganayagiammal, who was authorised to represent the matter. As the land owners refused to receive the notice, the same was affixed on the farm house on 08.10.1997 and a certificate to that effect was obtained from the Village Administrative Officer. The said Ranganayakiammal filed her objection on the date of enquiry on 08.10.1997 and an additional objection on 20.10.1997.

7.The Special Tahsildar (LA) Adi Dravidar and Tribal Welfare, Coimbatore, had gone through the objection and found that there was no truth in her objections and he rejected the objections and submitted a report before the District Collector, Coimbatore with his recommendations. The District Collector has also considered the objection and over ruled the objections, accepted the recommendations made by the Special Tahsildar and approved the 4(1) notification. The notification was published in the Coimbatore District Gazette dated 18.07.1998 and the Special Tahsildar had also issued a notice under Rule 5(1) of the Tamil Nadu Land Acquisition of Land for Harijan Welfare Schemes Rules, 1979, to the above said land owners to appear before the authorised officer viz., The Special Tahsildar (LA), Adi Dravidar and Tribal Welfare, Coimbatore. Since their request was rejected, the said Ranganayakiammal filed a writ petition before this Court in W.P.No.17198 of 1998 and filed a petition seeking for interim stay of possession. Therefore, the possession was not been taken. However, an award was passed on 12.03.1999 and an amount of Rs.9,85,052/- was deposited in the Principal Sub-Court, Coimbatore on 20.11.2001. This Court after hearing both sides dismissed the writ petition filed by Tmt.Ranganayakiammal.

8.Since there is no suitable poramboke land available for homeless Adi Dravidar people, this acquired land was allotted to them. The possession of land was already taken and the award amount was also deposited in the Sub-Court. The learned counsel for the respondents submitted that the registered owner of the land comprising in S.No.296/1 is only Tmt. Ranganayakiammal and Tmt.Velakkal and for the land comprising in S.No.296/2 is Tmt.Ranganayakiammal only. The appellants are not the owners of the land. Even now the appellants have not produced any document or patta to show that the land stands in their name or they are in possession of the land. The learned Single Judge has considered all the rival submissions. Tmt.Ranganayakiammal and Tmt. Velakkal are the registered owners of the land, the writ petition filed by Tmt.Ranganayakiammal is dismissed. There is no merits in the appeal and the appeal is liable to be dismissed.

10.Considered the rival submissions made by the learned counsel on either side and perused the original files produced by the respondents through learned Government Advocate.

11.The case of the appellants are that, the first appellant had purchased the property from one Sellappa Gounder, Son of Subbanna Gounder under a registered sale deed on 02.06.1976. He was in possession of the land and cultivating the land. Later in the year 2007, he came to know that the land was acquired by the respondent Department for providing house

sites to Adi Dravidas, and no notice was served and he was not aware of the entire land acquisition proceedings as such the notification issued under section 4(1) of the Tamil Nadu Acquisition Lands for Harijan Welfare Schemes Act 1978 is illegal. Hence, the acquisition proceedings initiated against him is liable to be quashed.

12. On a perusal of the original file, from the Revenue Records and also the notice issued by the Land Acquisition Officer-the second respondent, it is seen that enquiry notice was served to the registered owners of the land comprising in S.F.No.296/1 and 296/2 to one Vellakkal and Ranganayakiammal and not to the deceased first appellant herein. The revenue records shows the name of Ranganayakiammal and Vellakkal as owners of the land and no other name either the name of the appellants or the name of the alleged vendor of the first appellant is shown. Therefore, they cannot expect the land acquisition officer to issue notice to the appellants for the acquisition proceedings. If at all, the Land Acquisition Officer is expected to give notice only to the land owners as shown in the revenue records. Accordingly, the notice was issued to the land owners viz., Ranganayakiammal and Vellakkal and the said Ranganayakiammal participated in the acquisition proceedings and also challenged the acquisition proceedings in Writ Petition and the land acquisition Officer found that there was no suitable land for acquiring for construction of homeless poor Adi Dravidars and also there is no poramboke land in and around the said area, to acquire except this land. Accordingly, they have initiated acquisition proceedings for acquisition of the land. Based on the report filed by the Special Tahsildar, an authorised Officer of the District Collector, conducted the enquiry and submitted his report. Based on the report, the Collector has also considered the objections filed by the land owner and overruled the objections and approved to issue 4(1) notification. Accordingly, notifications were issued. Subsequently after issuing notice under Rule 5(1) and completing enquiry, award was passed. The award amount was calculated and deposited in the Sub-Court. Initially Ranganayakiammal approached this Court and got a stay. Later on the writ petition was dismissed and subsequently, the land was acquired for the purpose of providing house sites for the homeless Adi Dravidars. Thereafter, since the first appellant did not produce any document at the time of acquisition, showing that he is the owner of the land. Therefore, no notice was served to the appellants during the acquisition. The learned single Judge also considered all the aspects and dismissed the writ petition. The appellants have not proved that the acquired lands in S.Nos.296/1 measuring 0.62.05 hectares in Kuniamuthur Village, Coimbatore South Taluk and District covered under Section 4(1) of the Tamil Nadu Acquisition of Lands for Harijan Welfare Schemes Act, 1978,

published in the Coimbatore District Gazette No.11, dated 18.7.1998 belongs to the appellants. In revenue records also, either name of the appellants or the name of the vendor mentioned. Therefore, no notice was served to the appellants. Moreover, the land Acquisition Officer had issued notice under Section 4(2) to the land owners and conducted enquiry on 08.10.1997. The Collector, Coimbatore had published the notification in the Coimbatore District Gazette dated 08.10.1997. As per the revenue records, at the relevant point of time, the registered owners of the above said lands are Tmt. Ranganayakiammal and Tmt. Velakkal. Tmt.Ranganaykiammal received the notice, participated in the award enquiry also. Subsequently, after passing of award, the compensation amount has also been deposited into Civil Court. No where in the revenue records, it is shown that the appellants are the owner of the property at the relevant point of time. Therefore, in the light of the above discussions, there is no merit in the appeal and there is no reason to interfere in the order passed by the learned Single Judge.

Accordingly, the writ appeal stands dismissed. No costs. Consequently, connected Miscellaneous petition is also closed.

Sd/-
Assistant Registrar (CS V)

//True copy//

Sub Assistant Registrar

rm

To

1.District Collector,
Coimbatore District,
Coimbatore - 641 018.

2.Special Tahsildhar - Adidraavidar Welfare,
(Land Acquisition officer),
District Collectorate,

+1cc to Government Pleader SR.No.89001

W.A.No.944 of 2016
and CMP.No.12210 of 2016

SSI (CO)
GN(29/01/2018)