

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2017

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

W.P. No.17768 of 2003
& WPMP No.22207 of 2003

Akkamapettai Arulmighu Mariamman
Kovil Devalayam, rep. by its
Dharmakarthha A.M.Subramaniam
Akkamapettai & Post
Sankari Taluk, Salem District.

Petitioner

vs.

1.The District Collector
Salem District, Salem.

2.The Special Tahsildar
(Adi Dravidar Welfare)
Sankari.

Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records of the 2nd respondent pertaining to his proceedings in Roc.No.199/2000(A) dated 04.09.2001 and quash the same and consequently forbearing the respondents from acquiring the lands of the petitioner temple in S.No.104/2B in Akkamapettai Village, Sankari Taluk without following due process of law.

For petitioner सत्यमेव जयते Mr.G.Arulmurugan

For respondents Mr.V.Jayaprakash Narayanan
Special Government Pleader

ORDER

This writ petition has been filed by the Dharmakarthha of Akkamapettai Arulmighu Mariamman Temple, Sankari Taluk, Salem, challenging the notice dated 04.09.2001 issued by the Special Tahsildar (ADW) of the Sankari in Form-3. [Rule 5(1) of the Tamil Nadu acquisition of land for Harijan Welfare Rules].

2. The factual matrix of the case is as under:

The land measuring 1.18.0 hectares [around 2.91 acres] in S.No.104/2, Akkamapettai Village admittedly belongs to the petitioner Temple. For the purpose of providing a pathway for the members of the Adi Dravidar community to reach their burial ground, the respondents sought to acquire 0.01.5 hectares of land in S.No.104/2B belonging to the Temple and the notification under Section 4(1) of The Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (for short "the Act") was published in the Salem District Gazette on 23.02.2001. Thereafter, the authorities initiated proceedings under Rule 5 (1) of the Rules to decide the compensation payable to the Temple. At that juncture, the Temple had filed the present writ petition as stated above contending that prior to the notification under Section 4(1) of the Act, the Temple was not heard by the authorities as required under Section 4(2).

3. At the time of admission, on 27.06.2003, this Court passed the following order:

"Dispossession alone stayed for four weeks. Notice."

Thereafter, on 31.07.2003, it was extended.

4. In paragraph 4 of the affidavit filed by the petitioner, in support of the writ petition he has stated as follows:

"4. I humbly submit that again there arose a dispute in respect of extending a Path Way by the neighbouring persons. Finally the Tahsildar, Sankari amicably settled the matter on 02.05.2000. As per the settlement, lands belonging to the temple to an extent of 4-1/2 feet in S.No.104/2 was left for the Path Way and the Path Way has also now been formed.

5. Today, when the matter was taken up for hearing, Mr.S.Matheswaran, Special Tahsildar (ADW), Sankari, Salem District is present.

6. Mr.V.Jayaprakash Narayanan, learned Special Government Pleader submitted the written instructions dated 20.01.2017 given by Mr.S.Matheswaran, Special Tahsildar to him, wherein it is stated as follows:

"Now it is submitted after enquiry and perusal of records. It is ascertained that during 02.05.2000, the then Special Tahsildar (Welfare, Sankari) held talks on a dispute in respect of the provision of pathway an extent of

4-1/2 feet was left in survey No.104/2B for the convenient of Arunthathiars to go to their colony was formed and the matter of pathway facility settled. This information was brought to the notice of the Writ petitioner also. After this, no further proceedings was initiated by respondents in acquiring the land and proceedings were dropped. As per village account, the land in question, i.e., Survey No.104/2 is in the name of Akkamapet Arulmigu Mariamman Temple as per Patta No.215 of village accounts. It is again reiterated that Land Acquisition proceedings in this issue have been dropped before several years back. This is for favour of kind information and for appraising the above facts before Honourable High Court, Chennai.

7. Learned counsel for the petitioner confirmed the same and submitted that the Temple has left 4-1/2 feet pathway in S.No.104/2B for the Adi Dravidars to reach their burial ground. A route has also been formed for providing pathway to the burial ground. Learned counsel for the petitioner submitted that the Temple and its members have no objection, whatsoever for mutating the revenue records in respect of 4-1/2 feet pathway in S.No.104/2B by deleting the name of the Temple and earmarking it as "Burial ground pathway".

8. Recording the above, this petition is closed with a further direction to the District Collector to pass appropriate orders within three months from the date of receipt of a copy of this order for denotifying the acquisition proceedings and making necessary entry in the revenue records with respect to the 4-1/2 feet pathway earmarking it as "Burial ground pathway". No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

gms

P.S.:

Today the original File No.199/2000/A (pages 1 to 406) and File.No.36776/2000 D2 (pages 1 to 134) have been handed over to Mr.S.Matheswaran, Special Tahsildar (ADW) in the open Court and he has also acknowledged receipt of the same.

To

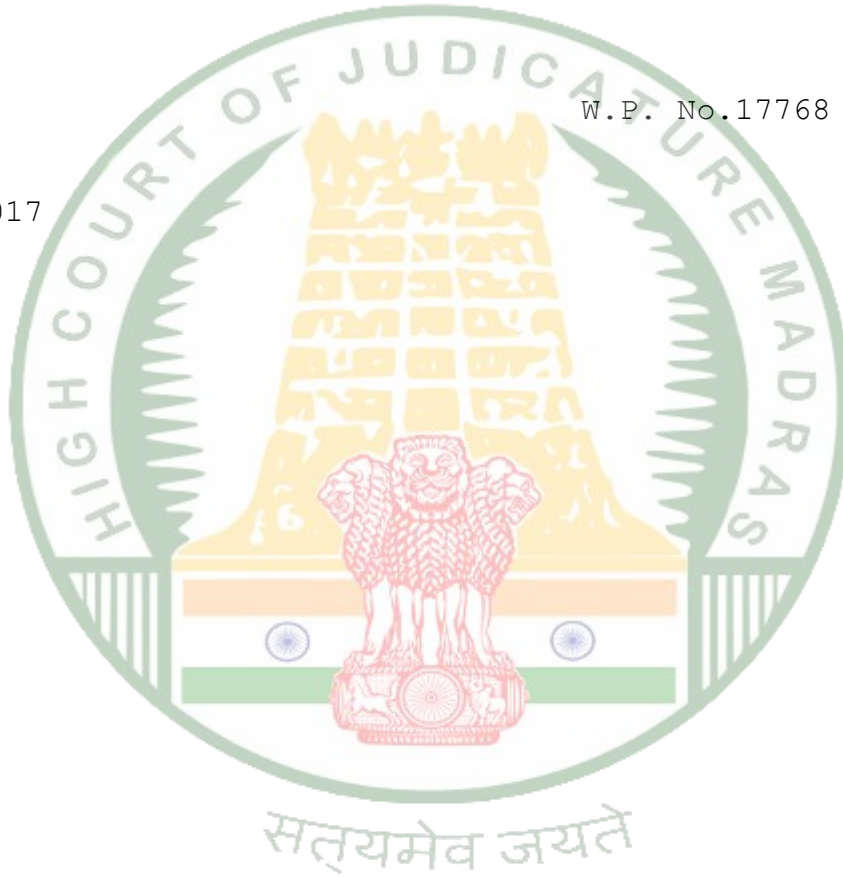
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+1 cc to M/s.G.Arul Murugan Advocate sr 4389
+1 cc to the Government Pleader sr 4929

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