

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.03.2017

Coram

The Hon'ble Mr. Justice S.M. Subramanian

Writ Petition No. 19487 of 2003

Rajakumari

...Petitioner

Vs.

1. The Government of Tamil Nadu,
rep. by Special Commissioner and Secretary
to Government, Adi Dravidar Welfare Dept.
Fort St. George, Chennai - 600 009.
2. The District Collector,
Perambalur.
3. The Special Thasildar,
Adi Dravidar Welfare,
Jayankondam, Perambalur District.

...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, forbearing the respondents and their subordinates from taking any further action following the lapse of land acquisition proceedings, in respect of the lands, measuring 1.05.5 hectare in S.No.207/8A, situated in Alagapuram, Udayarpalayam Taluk, Perambalur District.

For Petitioner : Mr.S.Senthilnathan
For Respondents : Mr.A.Zakkir Hussain
Government Advocate

O R D E R

The prayer in the Writ Petition is to forbear the respondents and their subordinates from taking any further action, pursuant to the land acquisition proceedings, initiated against the petitioner, in respect of the land, measuring 1.05.5 hectare in S.No.207/8A, situated in Alagapuram, Udayarpalayam Taluk, Perambalur District.

2. The learned counsel appearing for the petitioner submitted that the afore mentioned land owned by the petitioner have been sought to be acquired for the purpose of provision of house sites to the Adidraavidars, by invoking the provisions of

Land Acquisition Act, for which, she was issued with a notification under Section 4 (1) of the said Act, dated 10.05.1988 and Section 6 declaration, dated 13.06.1989, and challenging the 4 (1) notification, the petitioner filed a Writ Petition in W.P.No.8381 of 1989, and the same was dismissed on 25.05.1998. The learned counsel's main contention is that, though the writ petition filed by the petitioner was dismissed as early as on 25.05.1998, the respondents have not taken any steps to pass award so far, therefore, entire acquisition proceedings have become lapsed, in terms of Section 11-A of the Act, for, as, in terms of the said Section, award has to be passed within a period of two years from the date of issuance of Section 6 declaration. Further, the learned counsel has placed reliance on the decision rendered by the Hon'ble Madurai Division Bench of this Court, in W.A.(MD) No.408 of 2005, wherein, the Hon'ble Division Bench, taking note of the fact that the Writ Petition, challenging Section 6 declaration, dated 11.02.1994 was dismissed on 01.03.2001, and, also taking into consideration the provisions of Section 11-A of the Land Acquisition Act that award has to be within a period of two years from the date of publication of the declaration, held that entire acquisition proceedings have become lapsed. The learned counsel also produced a copy of the said judgment for reference of this Court, and submitted that, following the Division Bench's judgment, the present Writ Petition may be allowed.

3. The learned Government Advocate for the respondents, while reiterating the averments set out in the counter affidavit filed by the third respondent would contend that due to the stay order granted by this Court in the earlier Writ Petition filed by the petitioner, viz., in W.P.No.8381 of 1989, final award has not been passed.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate for the respondents, and this Court also perused the judgment relied upon by the learned counsel for the petitioner, and on a perusal of the said judgment, it is clear that the issued involved in this Writ Petition is covered by the said judgment, as in the present case also, no award has been passed even after a lapse of more than two years. This Court is of the view that, it would be beneficial to refer to the operative portion of the said judgment, which is extracted as hereunder :-

"The appellant has furnished the dates and events relating to the acquisition proceedings. Section 4 (1) notification was published on 23.12.1992. Section 6 declaration was made on 11.02.1994 and challenging the said declaration, the

appellant had filed Writ Petition and obtained interim stay of dispossession on 29.04.1994. Thereafter, the writ petition was dismissed along with other batch of writ petitions on 01.03.2001. If the period atleast from 01.03.2001, the date on which the final order was passed by this Court in the writ petitioner, is taken into consideration, the award should have been passed on or before 28.02.2003. On the other hand, the award has been passed only on 28.03.2003. The provisions of Section 11 (A) of the Act is very clear that inasmuch as it mandates the Collector to make an award under Section 11 within two years from the date of publication of the declaration and if no award is made within that period, the entire proceedings for acquisition of the lands shall lapse.

Accordingly, the writ appeal is allowed and it is declared that the entire acquisition proceedings in respect of the land of the appellant notified under section 4 (1) Notification, dated 23.12.1992, and declared under Section 6 on 11.02.1994 shall lapse automatically. No costs."

5. Thus, in the light of the above referred judgment, this Court has no hesitation to hold that the entire acquisition proceedings initiated against the petitioner, in respect of the lands, measuring 1.05.5 hectare in S.No.207/8A, situated in Alagapuram, Udayarpalayam Taluk, Perambalur District, have become lapsed.

6. In the result, the Writ Petition is ordered. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

sd

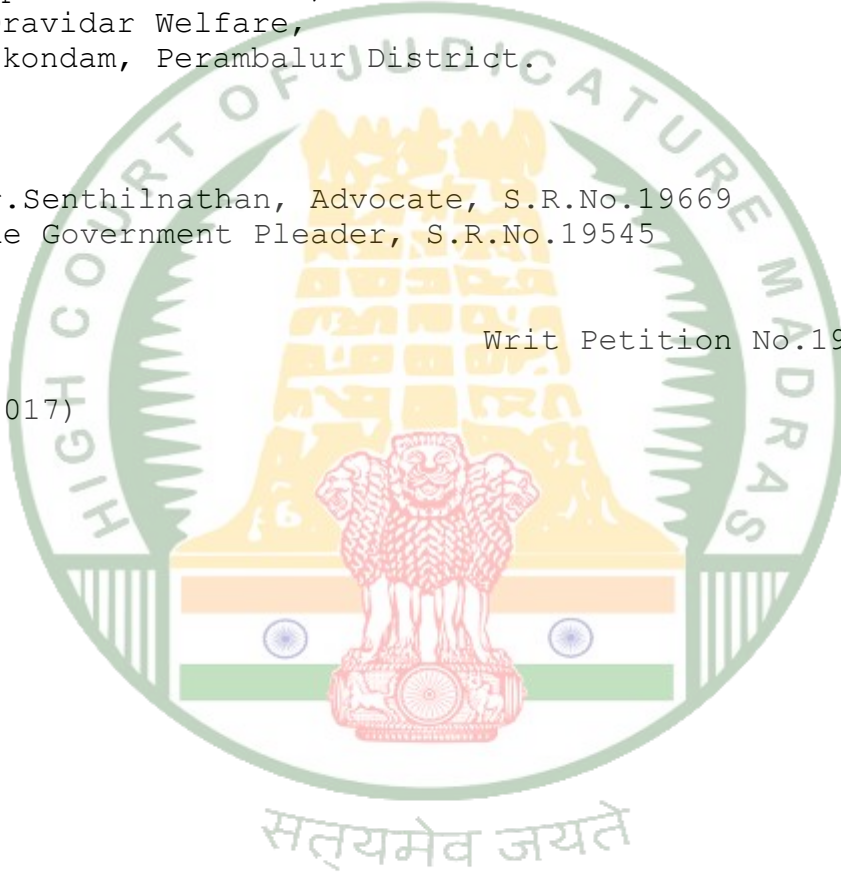
To

1. The Special Commissioner and Secretary
to Government, Adi Dravidar Welfare Dept.
Fort St. George, Chennai - 600 009.
2. The District Collector,
Perambalur.
3. The Special Thasildar,
Adi Dravidar Welfare,
Jayankondam, Perambalur District.

+lcc to Mr.Senthilnathan, Advocate, S.R.No.19669
+lcc to the Government Pleader, S.R.No.19545

Writ Petition No.19487 of 2003

SKV(CO)
RS(16/05/2017)



WEB COPY