



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 19.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No. 8377 of 2017

M.Ravi

.. Petitioner

Vs.

1.The Principal Secretary,
Adi Dravidar and Tribal Welfare Department,
Fort St.George,
Chennai.

2.The District Collector,
Madurai.

3.The Special Tahsildar (Land Acquisition),
Adi Dravidar Welfare Department,
Collectorate Premises,
Madurai-20.

.. Respondents

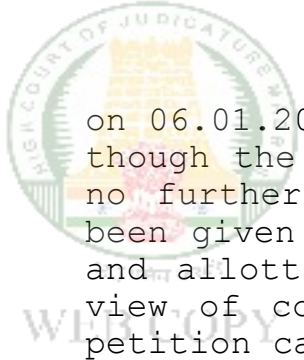
PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to consider the representation of the petitioner, dated 20.03.2017 and to provide house site assignment in favour of the beneficiaries among the eligible villagers of the petitioner and to provide house site Patta by dividing the properties in Survey Nos.15/1B3, 15/3B of Cinthamanai Village, Madurai District and consequently direct the respondent to provide the possession of the respective house sites.

For petitioner : Mr. R.Pandi Maharaja
For Respondents : Mr.M.Govindan
Special Government Pleader

O R D E R

[Order of the Court was made by G.R.SWAMINATHAN, J.]

This writ petition has been filed in public interest. The third respondent herein initiated Land Acquisition Proceedings for acquiring the lands in Survey Nos.15/1B3, 15/3B in Cinthamanai Village, Madurai District for providing house sites for persons belonging to scheduled caste community. Notification under Section 4 (1) of Tamil Nadu Act 31 of 1978 was issued as early as on 09.08.2002. The said proceedings came to be challenged in W.P.(MD). Nos.38688 and 41421 of 2002. The said writ petitions were dismissed



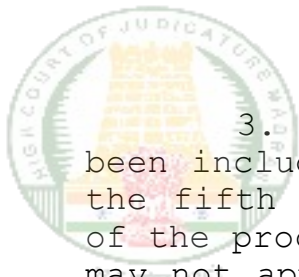
on 06.01.2009. It is the grievance of the writ petitioner that even though the challenge mounted by the land owners ended in dismissal, no further steps were taken in the matter. Representations have been given repeatedly for dividing the said lands in to house sites and allotting the same in favour of scheduled caste persons. In view of continued official apathy and inaction, the present writ petition came to be filed.

2. When the matter was taken up for hearing, it was submitted that the entire proceedings got lapsed. Various reasons were given to sustain the contention that the proceeding lapsed. When this Court called upon the respondents to file a statement in writing, it was initially submitted that even though notification was made on 03.08.2002, since award was not passed within two years, the proceedings got lapsed in view of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30/2013) (herein after the 'said Act'). But subsequently, the learned Special Government Pleader furnished a copy of Tamil Nadu Gazette No.3, dated 05.01.2015 containing Tamil Nadu Act No.1 of 2015. By virtue of the said amending Act, Section 105(A) has been introduced in to the Central Act. Section 105(A) reads as follows:

"105-A. Provisions of this Act not to apply to certain Tamil Nadu Acts or to apply with certain modifications.-(1) subject to sub-section(2), the provisions of this Act shall not apply to the enactments relating to land acquisition specified in the Fifth Schedule.

(2) The State Government shall, by notification, within one year from the date of commencement of this Act, direct that any of the provisions of this Act, relating to the determination of compensation in accordance with the First Schedule and rehabilitation and resettlement specified in the Second and Third Schedules, being beneficial to the affected families, shall apply to the cases of land acquisition under the enactments specified in the Fifth Schedule or shall apply with such exceptions or modifications that do not reduce the compensation or dilute the provisions of this Act relating to compensation or rehabilitation and resettlement as may be specified in the notification, as the case may be.

(3) A copy of the notification proposed to be issued under sub-section (2) shall be laid in draft before the Legislative Assembly of the State of Tamil Nadu and if the Legislative Assembly agrees in disapproving the issue of the notification or the Legislative Assembly agrees in making any modifications in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by the Legislative Assembly."



3. In the fifth schedule, the Tamil Nadu Act 31 of 1978 has been included. In view of inclusion of Tamil Nadu Act 31 of 1978 in the fifth schedule, Section 24 of the said Act providing for lapse of the proceedings, if award is not passed within a given time frame may not apply in this case. Hence, the respondents are directed to continue the proceedings that were initiated as early as in the year 2002. 15 years have gone by. This Court while dismissing the writ petitions filed by the land owners, observed in paragraph No.6, that the award enquiry was already conducted and that before further steps could be taken, an interim order was obtained on 11.10.2002. We direct the third respondent in particular to take follow up action so that the object of acquisition is effectuated. The third respondent shall complete the acquisition proceedings and pass the award and identify the beneficiaries. The beneficiaries shall be allotted free house sites, for which the entire proceedings were initiated. The entire process shall be completed as early as possible.

4. With these directions, the writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar(CRL.SIDE)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1.The Principal Secretary,
Adi Dravidar and Tribal Welfare Department,
Fort St. George,
Chennai.

2.The District Collector,
Madurai.

3.The Special Tahsildar (Land Acquisition),
Adi Dravidar Welfare Department,
Collectorate Premises,
Madurai-20.

+ 1 CC TO Mr.H.ARUMUGAM , ADVOCATE IN SR No.79976
+1 cc to Special Government Pleader, SR.No.79899.
RMK/PJL
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