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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2018

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THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P. 35896 of 2004
and
W.M.P. 43205 of 2004

1. M.Jayaseelan
2. M.Sampath
3.M.Durai

... Petitioners

Vs

1. The District Collector,
Dharmapuri District,
Dharmapuri.

2. The Land Acquisition Officer-cum-
Special Tahsildar,
Adi-Draavidar Welfare,
Krishnagiri.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the Notification under Sec.4(1) of the Tamil Nadu Acquisition of Lands for Harijan Welfare Schemes Act, 1978 of the 1st respondent published in Dharmapuri District Gazette (Extraordinary) No.2, dated 31.01.2002 and the Award passed by the 2nd respondent in Award No.1/02-03 dated 20.03.2002 in Na.Ka.No.742/2001 in respect of the petitioners' land in Survey No.15/2 and 16/4 A of an extent of 0.75.0 hectares in Nagajonahalli Village, Pochampalli Taluk, Krishnagiri District and quash the same as illegal and contrary to law.

For Petitioners : Mr.R.Thamaraiselvan

For Respondents : Mr.D.Raja,
Addl. Government Pleader

O R D E R

The present Writ Petition has been filed challenging the notification issued under Sec. 4(1) of the Tamil Nadu Acquisition of Lands for Harijan Welfare Schemes Act, (Act 31 of 1978) (hereinafter called the 'Act').



2. According to the petitioners, the petitioners are brothers and they are co-owners of the land in Survey No.15/2 and 16/4-A of an extent of 0.75.0 hectares situated in Nagojanahalli Village, Pochampalli Taluk, Krishnagiri District. Earlier, the respondents have initiated acquisition proceedings under the Act for providing house sites to Adi-dravidars of Nagarasampatti Village. According to them, without issuing any notice to the petitioner under Sec.4(2) of the Act, the respondents have issued the notice to mother of the petitioners viz., Apoorvaammal and their sisters viz., Indira and Malar calling them to appear for an enquiry. After coming to know about the same, the petitioners have sent their representation through their counsel on 23.12.2001 and 07.01.2002 informing about their right over the land and also informing them about the suit filed by them in O.S.No.261 of 2000 on the file of District Munsif Court, Pochampalli. But, without considering the objection, the notice has been issued under Sec.4(1) of the Act, subsequently, an award was also passed. Challenging the above proceedings, the present Writ Petition has been filed.

3. The 2nd respondent has filed the counter affidavit stating that as per the revenue records, the above lands stood in the name of Apoorvammal, Indira and Malar and a Patta was also issued in their names, hence, the notice was issued to them. Even though the petitioners have raised objection, they have not produced any material to show that they have any right over the property, and the suit filed by them was also dismissed on 20.09.2001. The District Collector, Dharmapuri after considering their objections, had issued the notification under Sec.4(1) of the Act and the same was published in the Dharmapuri Government Gazette on 31.01.2002. Subsequently, the award enquiry was conducted by the District Revenue Officer, Dharmapuri and the award was also passed. Since there was a dispute between the petitioners and their mother and sisters, the award amount was deposited in the Sub-Court, Krishnagiri under Sec.11(2) of the Act in L.A.O.P. No. 41 of 2003, and it is ascertained from the Sub-Court that the compensation amount was also disbursed in favour of petitioners' mother on 18.06.2002.

4. I have heard and considered the rival submissions and perused the records carefully.

5. The main objection raised by the petitioners is that they are the co-owners of the property and without issuing any notice to them under Sec.4(2) of the Act, the 1st respondent has issued the notification under Sec.4(1) of the Act. Disputing the same,



the learned counsel appearing for the 2nd respondent submitted that on the date of issuance of notice, the revenue records and the patta stands in favour of petitioners' mother and sister and the petitioners did not produce any records to show that they have a right over the property. After considering the objections filed by the petitioners, as the respondents have to go by the revenue records, the 1st respondent passed an order under Sec.4 (3) of the Act rejecting their objections.

6. Admittedly, on the date of issuance of notice under Sec.4(2) of the Act, the patta stands in the name of the petitioners' mother and sister and the notice was issued to them and their objection was considered and the petitioners cannot have any grievance over the same. So far as the disbursal of the award amount is concerned, since the petitioners are also claiming right over the property, rightly the award amount has been deposited in the Sub-Court, Krishnagiri under Sec.11(2) of the Act in L.A.O.P. No.41 of 2003 and now, it is stated that subsequently, the Sub-Court, Krishnagiri has also disbursed the amount in favour of petitioners' mother and sister. In the above circumstances, this Court finds no merit in the Writ Petition.

7. In view of the above, the Writ Petition stands dismissed. Consequently, connected Writ Miscellaneous Petition is also closed. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Dharmapuri District,
Dharmapuri.
2. The Land Acquisition Officer-cum-
Special Tahsildar,
Adi-Dravidar Welfare,
Krishnagiri.



+1cc to Mr.R.Thamaraiselvan, Advocate, S.R.No.60260

+1cc to the Government Pleader, S.R.No.60623

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KS (CO)
GSP (11/10/2018)