

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.10.2018

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

W.P.No.39527 of 2004 and
W.P.M.P.No.47111 of 2004

1. P.Subramaniam
2. P.Ramasamy
3. P.Muthukutty @ Muthusamy
4. P.Somasundaram @ Periyasamy Gounder ... Petitioners

..Vs..

- 1.The District Collector,
Coimbatore District,
Coimbatore
2. The Revenue Divisional Officer,
Tiruppur
Coimbatore District
3. The Tahsildar,
Adi Dravida Welfare,
Tiruppur, Coimbatore District ... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the respondents in connection with the order under Section 4(1) of the Tamilnadu Acquisition of Land for Harijan Welfare Scheme Act, 1978 dated 01.09.2004 published in Coimbatore District Gazette dated 10.09.2004, in so far as the petitioners' land in S.F.No.467/2 and quash the same.

For Petitioners : Mr.D.Selvaraju

For Respondents : Mr.D.Raja
Additional Government Pleader

O R D E R

The Writ Petition has been filed challenging the Notification issued by the 1st Respondent, under Section 4(1), of the Tamilnadu Acquisition of Land for Harijan Welfare Scheme Act, 1978 [hereinafter called as Act] dated 01.09.2004 published in Coimbatore District Gazette dated 10.09.2004.

2. According to the petitioners, they are the co-owners of the property in S.F.Nos.467/1, 467/2 and 479/2A in Karaipudur village. The petitioners are agriculturists and they are eking out their livelihood only from the above said lands. Now the said lands are sought to be acquired by the respondents to form a road to the Harijan colony people in Survey No.472/2A in the above said village. When the notice under Section 3(1) of the Act, dated 09.12.2003, was issued to the petitioners, they have raised objections on 29.12.2003, stating that, there is another road already existing, on the other side of the PAP Channel, and by constructing a culvert across the PAP Channel, the residents of the Adidravidar /Harijan colony people can conveniently use the above road and there is no necessity for acquiring the petitioners' land for providing another pathway. However, without considering the said objections raised by the petitioners, the 1st respondent has issued a notification dated 10.09.2004 under Section 4(1) of the Act. Being left with no other option, the petitioners have approached this Court.

3. The respondents have filed a detailed counter affidavit stating that, already 113 House site pattas have been granted to the Adi-dravidar community people in Suvey No.479/2A, in the above said village, and there is no proper road available to reach the above place. However, people have made temporary arrangements by putting stone culvert on the P.A.P.Channel to reach the place, and on the request of the people residing in the above place seeking for a proper pathway, now, a proceeding has been initiated under the Act to acquire the above land. A proper notice was issued to the petitioners and the 3rd Respondent / Tahsildar, Coimbatore District conducted an enquiry and submitted his report. After considering objections raised by the petitioners, the 1st Respondent has issued the notification under Section 4(1) of the Act, which warrants no interference by this Court.

4. The learned counsel appearing for the petitioners, by way of reply to the counter affidavit submitted that now, pending Writ petition, local panchyat has constructed 30 feet wide culvert over the PAP Channel and now Adidravida people are comfortably using the existing road, via culvert and there is no necessity for acquiring the petitioners' land, as there is a well constructed road available for the Adidravida colony.

5. Pursuant to the reply affidavit filed by the petitioners, the 3rd respondent / the Tahsildar, Coimbatore was directed to inspect the subject property in question by way of an order dated 23.10.2018. Pursuant to the same, the Tahsildar, inspected the place, and filed a status report today, stating that, a culvert has been constructed by the Karaipudur Panchayat

over the Parambikular Aliar Project Channel, and that is being used by the public. Apart from that, the road in the layout in S.F.No.479/1A, in the above said village has also been handed over to Karaipudur Panchayat by the Layout promoters.

6. The learned counsel for the petitioners submitted that, the respondents now admitted that culvert has been constructed over the PAP Channel, and road has also been gifted and handed over to the panchayat and hence, there is no necessity to acquire the petitioners' land.

7. The learned counsel for the respondents, on instructions submitted that even though the road is available, that road is not properly developed and it is also running through a layout, hence it is difficult for the public to use the above road.

8. Heard the submissions of the learned counsel on either side and perused the documents, counter affidavits and status report filed by the respective respondents.

9. The main contention of the petitioners for the acquisition is that, now a well laid road has been handed over to the local body by the layout promoters enabling all the public to use the road, and a culvert was also constructed over the PAP channel, and the local body is also maintaining the road and the Adidravida peoples are using the same. There is no necessity to form another road that too in the agricultural land belonging to the petitioners.

10. Considering the above circumstances, this Court is of the view that, now a road is available for the Adidravidar people to reach their houses, there is no necessity to form another road by paying compensation from the public money, that too through agricultural land affecting valuable right of the petitioners. The purpose of acquiring the land is for forming a road for Adidravida colony, as there was no road facility available to them. Now a well formed road is available, the very purpose is no more exist, and there is no necessity to acquire the lands of the petitioners. Hence the impugned Notification dated 10.09.2004 is set aside and the Writ Petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssd

To

- 1.The District Collector,
Coimbatore District,
Coimbatore
2. The Revenue Divisional Officer,
Tiruppur
Coimbatore District
3. The Tahsildar,
Adi Dravida Welfare,
Tiruppur, Coimbatore District.

+1 cc to M/s.D.Selvaraju, Advocate Sr.No.75154
+1 cc to The Government Pleader, Sr.No.74900

W.P.No.39527 of 2004 and
W.P.M.P.No.47111 of 2004

CP(CO)
CSL/30.01.2019