

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 26.09.2018
CORAM
THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN
W.P. 29065 of 2005
and
W.M.P. 31779 of 2005

V.Thangavel

... Petitioner

Vs

1. The District Collector,
Thiruvannamalai Dt.

2. The Special Tahsildar,
(Adi Dravidar and Tribal Welfare),
Chengam,
Thiruvannamalai Dt.

... 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 show cause notice dated 04.08.2004 issued by 2nd respondent herein and quash the same as illegal, unjust and against the Constitution of India.

For Petitioner : Mr.A.Edwin Prabakar
For Respondents : Mr.C.Thirumaran,
Special Government Pleader
(Land Acquisition)

O R D E R

This Writ Petition has been filed for challenging the notice issued under Sec.4(2) of the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act (Act No.31 of 1978) (hereinafter called as 'Act') read with Rule 3(1) of the Tamil Nadu Harijan Welfare Rules.

2. The main contention of the petitioner is that the notice has been issued without mentioning any public purpose, for which the land is sought to be acquired for other purpose.

3. The learned counsel appearing for the petitioner submitted that in respect of very same acquisition proceedings, a similar notice issued by the 2nd respondent, in respect of neighbouring landowners has been set aside by this Court in W.P.Nos. 28792 and 28891 of 2005 by an order dated 21.02.2018 and submitted that in this Writ Petition also, a similar order could be passed.

4. The learned counsel appearing for the respondent fairly submitted that a similar notice issued by the 2nd respondent in respect of the neighbouring landowners was set aside by this

Court, and he has also produced the copy of the orders passed by this Court.

5. From the perusal of the order passed by this Court, it could be seen that a similar notice issued by the 2nd respondent has been set aside on the ground that the notice lacks material particulars and not enabling the landowners to raise their objection. The operative portion of the order dated 21.02.2016 passed by this Court in W.P.Nos.28792 and 28891 of 2005 reads as follows :-

"6. If an enquiry contemplated under Sec.4(2) has to be meaningful, then the owners of the lands that are sought to be acquired ought to be put on notice about the intended purpose, for which the property is proposed to be acquired, lest such owners would be at a disadvantage to raise their objection meaningfully. In other words, a mere issuance of a notice under Sec.4(2) of the Act sans material particulars can hardly be termed as a notice within the requirements of law. Necessarily, the said notice shall be let to stay."

6. In view of the above, the Writ Petition is allowed and the impugned notice issued by the 2nd respondent is set aside. No costs. Consequently, connected Writ Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rpp

To

1. The District Collector,
Thiruvannamalai Dt.

2. The Special Tahsildar,
(Adi Dravidar and Tribal Welfare),
Chengam, Thiruvannamalai Dt.

+1cc to Mr.A.Edwin Prabakar, Advocate, S.R.No. 66949

+1cc to the Government Pleader, S.R.No. 67062

W.P. 29065 of 2005
and

W.M.P. 31779 of 2005

SR(CO)
GN(28/11/2018)