

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.01.2018

Coram: The Honourable Mr. Justice N. SESHASAYEE

W.P.No.32017 of 2014

Doss

...Petitioner

Versus

1. The Collector,
Villupuram District,
Villupuram.

2. The Special Tahsildhar,
Ulundurpet, Villupuram District.

...Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents to re-conveyance the land in Survey No.16/2 measuring 0.22.0 Hectares of dry land which is acquired by the respondent dated 25.10.1994 to the petitioner.

For Petitioner : Mr.S.N.Narasimhulu

For Respondents : Mr. M. Karthikeyan,
Additional Government Pleader

O R D E R

In this case, the petitioner seeks to quash the notification issued under Section 4(1) of Land Acquisition Act, 1894 (hereinafter referred to as "LA Act").

2. The fundamental contention of the learned counsel for the petitioner is that the constitutionality of the Tamil Nadu Acquisition of land for Harijan Welfare Schemes Act, 1978 (Tamil Nadu Act 31 of 1978) was challenged before this Court and the Division Bench of this Court had declared the same as unconstitutional, that challenging the same, the State preferred an appeal to the Hon'ble Supreme Court, and that the Apex Court has upheld the constitutionality of the TN Act 31/1978 in the case of State of Tamil Nadu Vs. Anandhiammaal reported in [AIR 1995 SC 2114]. This judgment was delivered on 22.11.1998. It is also made clear by the Supreme Court in Paragraph 28 of its judgment that inasmuch as the special enactment made by the Tamil Nadu legislature is held constitutional, no land shall be acquired under the provisions of the LA Act as concerning the public purposes covered by Tamil Nadu Act 31/1978. The learned counsel further submitted that in connected proceedings, this Court has already quashed the notification issued under Section 4(1) of the LA Act and brought to the notice of this Court the Order in W.P.No.4378 of 1997 dated 19.07.2000, wherein, this Court, relying on the dictum followed in Anandhiammaal case and quashed the notification issued under Section 4(1) of the LA

Act. He further stated that the petitioner continues to be in the possession of the property.

3. Mr.M.Karthikeyan, the learned Additional Government Pleader appeared for the respondents. In the counter affidavit, the Special Tahsildhar has inter alia contended that the order in W.P.No.4378 of 1997 is confined to the properties of the petitioner in that case and that the same cannot be extended to the case of the petitioner, and that an award has been passed in the year 1997.

4. The dictum in State of Tamil Nadu Vs. Anandhiammaal reported in [AIR 1995 SC 2114], is unequivocal and makes irrelevant every debate on the subject. Therefore, in this context, when this Court has already quashed the notification issued under the provisions of Section 4(1) of the LA Act is bad in law for its non-applicability, it goes to the root of the matter and cannot be limited to the properties covered in W.P.No.4378 of 1997. Besides the same, inasmuch as the petitioner has brought up the same issue in the present Writ Petition, this Court has little option than to pass an order in terms of the prayer sought.

5. This Writ Petition is therefore allowed and the Notification issued under Section 4(1) of the LA Act is hereby quashed. This order however will not operate as an embargo to acquire the land afresh in the manner known to law. No costs.

mrr

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Collector,
Villupuram District,
Villupuram.

2. The Special Tahsildhar,
Ulundurpet, Villupuram District.

+1cc to Mr.S.N.Narasimhalu, Advocate Sr.No.7082

MR(CO)

sm:2.5.2018

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