

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.03.2018

Coram: The Honourable Mr. Justice N. SESHASAYEE

W.P.No.20245 of 2011
and
W.P.M.P.Nos.2, 3 & 4 of 2011

G. Saraswathi

...Petitioner

Versus

1. The Secretary to Government,
Government of Tamil Nadu,
Agricultural Department,
Fort St.George,
Chennai - 600 009.
2. The Joint Secretary to Government,
Government of Tamil Nadu,
Agricultural Department,
Fort St.George,
Chennai - 600 009.
3. The Revenue Divisional Officer (Land Acquisition),
O/o The Revenue Divisional Officer,
Thanjavur, Thanjavur District.Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a issuance of a Writ of Certiorari to call for the entire records of the impugned orders in Vide G.O.Ms.No.8, Agriculture (AU) Department, dated 12.01.2010 and the publication of the same published in Thinamalar Tamil Daily dated 21.01.2010 and Vide G.O.Ms.No.25 Agriculture (AU) Department, dated 09.02.2010, published in Thinamalar Tamil Daily on 17.02.2010 quash the same with respect to Survey No.140/2 at Nanjil Kottai Village, Thanjavoor Taluk and District as illegal.

For Petitioner : Mr.V.Arun

For Respondents : Mr.Karthikeyan,
Additional Govt. Pleader

O R D E R

1.1. The case of the petitioner is that she owned a property of land measuring an extent of 55 cents comprised in Survey No.140/2 at Nanjikotti Village, Thanjavur Taluk and the same was sold to District Revenue Officer, Thanjavur through

private negotiation in the year 2002 for the formation of Central Government Institution. But till date no sale consideration has been paid. In the year 2007, she was informed by the District Authority that they could not get prior administrative sanction from the Government to acquire the said lands for the said purpose by way of private negotiation. Be that as it may, the District Authority started to acquire those lands by way of invoking Land Acquisition Act.

1.2. Thereafter, the petitioner intended to sell the same to an Educational Trust. In the meantime, the District Authority issued instructions to the Sub Registrar of Thanjavur not to register any sale deeds pertaining to the lands of the petitioner as well the lands belonging to one Mr. Abdhul Subhahan (Petitioner in W.P.No.3382 of 2010), as they are going to acquire those lands. The Registration Authority also refused to register the sale deed in the name of Educational Trust, hence the petitioner appointed the Power of Attorney under registered deed in doc.No.2320(Book IV) of 2007, dated 11.12.2007 on the file of the District Registrar, Thanjavur.

2. On subsequent enquiries, it came to light that the notification under Section 4(1) of the Land Acquisition Act, 1894 was issued on 17.01.2008. Necessary objections were filed by the petitioner to the aforesaid Notification. However, no notice under Section 5-A of the Land Acquisition Act, 1894 was issued nor an enquiry was conducted. It was only two years later, on 21.01.2010, a fresh notification was published under Section 4(1) of the Act. The petitioner again filed his objection dated 30.01.2010. Ultimately, it culminated in the Government issuing declaration under Section 6 of the Act on 17.02.2010. The petitioner now challenges in this petition, the administrative sanction accorded for acquiring the land, the notification issued under Section 4(1) and the declaration under Section 6 of the proceedings.

3. It appears that the acquisition proceedings did not appear to have moved to the next stage of holding an enquiry of passing of award under Section 11. In the meantime, it also appears that the Sub-Registrar, who was earlier restrained not to register the sale deeds was permitted to execute the sale deeds and accordingly, the Educational Trust, represented by the petitioner was able to have sale deeds executed and three sale deeds were executed in the name of the petitioner in Document No.2320(Book IV) of 2007, dated 11.12.2007.

4. In this case, the third respondent, the beneficiary of the acquisition has filed the counter affidavit. The third respondent defend the legality of the notification issued under Section 4(1) and declaration made under Section 6(1) of the Land Acquisition Act, 1894.

5. Mr.M.Karthikeyan, learned Additional Government Pleader, appearing for the respondent submitted on instructions, that in this case an award has not yet been passed and also fairly submitted that in view of Section 24 (1) (a) of the Right of Fair compensation Act, it is imperative for the land acquisition authority to pass an award only in terms of the said Act. The said statement of learned Additional Government Pleader is recorded.

6. The learned Additional Government Pleader also mentioned that the Authorities have also opened the window for of a private negotiation, which is one of the most methods permitted for acquiring land under the Right to Fair Compensation Act and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013) (hereinafter referred to as "Act").

7. This Court, therefore disposes this matter by directing the Authorities to adopt any of the methods open to the Land Acquisition Authority for acquiring the land as provided in the Act.

8. Accordingly, this Writ Petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petitions are closed.

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

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To

1. The Secretary to Government,
Government of Tamil Nadu,
Agricultural Department,
Fort St.George,
Chennai - 600 009.
2. The Joint Secretary to Government,
Government of Tamil Nadu,
Agricultural Department,
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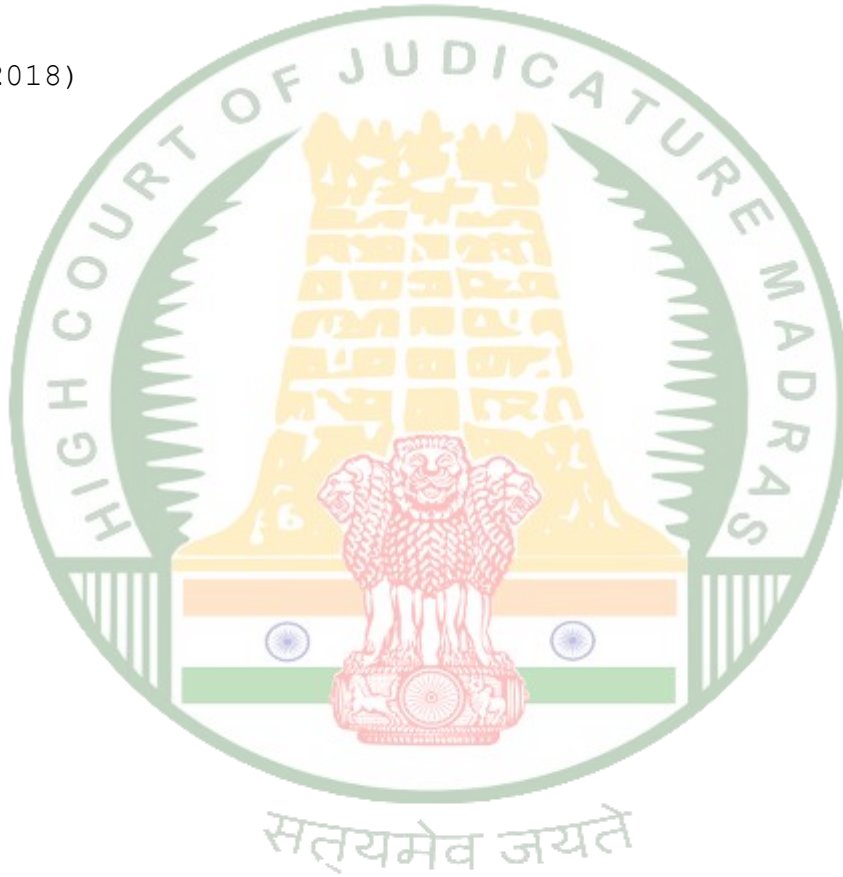
3. The Revenue Divisional Officer (Land Acquisition),
O/o The Revenue Divisional Officer,
Thanjavur, Thanjavur District.

+1 CC to Govt. Pleader sr 21866.

+1 CC to Mr.V. Arun, Advocate sr 20529.

W.P.No.20245 of 2011

SP(11/06/2018)



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