

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 29.10.2018

CORAM :
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.8773 of 2013

G.M.Govindasamy

... Petitioner

vs.

1.The District Collector,
Collectorate, Krishnagiri District,
Krishnagiri.

2.The Special Tahsildar,
Adi-Dravidar Welfare Department,
O/o.Collectorate, Krishnagiri.

3.The President,
Anchoor Panchayat,
Anchoor Post - 635 203,
Krishnagiri District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of Mandamus forbearing the respondents, their men, agents or other from interfering with the petitioner's possession and enjoyment over to subject land comprised in S.No.315/2 patta No.687 situate in Sendarapalli Revenue Village, Krishnagiri Taluk & District measuring to an extent of Acres 2.58 1/2 cents.

For Petitioner : M/s. M.Thangaraju

For Respondents : Mrs. A.Shrijayanthi
Spl.Government Pleader

O R D E R

The relief sought for in the present writ petition is to forbear the respondents, their men, agents or other from interfering with the petitioner's possession and enjoyment over the subject land comprised in S.No.315/2 patta No.687 situate in Sendarapalli Revenue Village, Krishnagiri Taluk & District measuring to an extent of Acres 2.58 1/2 cents.

2. The learned counsel for the writ petitioner states that the property measuring 1 Acre and 39 cents belongs to the writ petitioner was acquired under the Land Acquisition Act for the purpose of providing free house sites to the landless Adi-

Dravida people of that locality. The land acquisition proceedings ended in the year 1990 itself. The learned counsel for the writ petitioner admits the fact that the land acquisition proceedings ended and an award was passed in the year 1990 itself.

3. However, the writ petitioner states that he is in possession and enjoyment of the land. The grievances of the writ petitioner is that the possession has not been taken from him and this apart, no Government employment under the priority category has been provided to the son of the writ petitioner. Thus, he is constrained to file the present writ petition.

4. The Learned Special Government Pleader appearing on behalf of the respondent made a submission that the property to an extent of 1.39 Acres (0.56.5 Hectare) in S.No.315/2 of Chandrapalli Village in Krishnagiri Taluk was acquired by the Special Tahsildar (ADW), Krishnagiri in the year 1990 for providing free house sites to the poor houseless Arunthathiyars of Chandrapalli Village.

5. The land belongs to one Mr.Mooka Goundar, S/o.Mariappan of Chandrapalli Village. Total extent in this survey number is 1.04.5 Out of 1.04.5 Hectare an extent of 0.56.5 Hectare (1.39 acres) have been acquired for for providing free house sites to houseless Arunthathiyar people of Chandrapalli Village. The award was passed by the Special Tahsildar (ADW), Krishnagiri in Award No.8/1989-90 dated 20.03.1990. Possession of the acquired portion of the land was taken over by the Government and free house site pattas were issued to houseless peoples of the Chandrapalli Village. The landowner refused to receive the compensation amount awarded by the Land Acquisition Officer and hence the compensation amount was deposited in Sub Court, Krishnagiri under Section 30 of Land Acquisition Act.

6. The land owner challenged the land acquisition proceedings of the Special Tahsildar (ADW), Krishnagiri and filed a writ petition in W.P.No.3101 of 1990 and the same was dismissed by this Court on 16.03.1990. Again the land owner filed another Writ petition in W.P.No.19654 of 1990 with the same prayer and this Hon'ble High Court once again dismissed the writ petition on 16.11.1992. The counter affidavit filed by the 2nd respondent states that the petitioner is a powerful person in the village and belongs to dominant community. Hence the beneficiaries could not be able to enter upon the acquired land and construct houses in the land. The respondents were taking steps to settle the beneficiaries in the acquired land after a lapse of 23 years. The owner's son has filed the third writ petition challenging the Land Acquisition proceedings of the Special Tahsildar, Krishnagiri.

7. In view of the fact that the land was acquired in the year 1990 and the Award was passed and the compensation was deposited before the Sub Court, Krishnagiri and, the writ petitioner is going on filing the writ petition after writ petition before this Court one way or other way to stall the scheme being implemented by the Government. This Court directed the Special Tahsildar, Krishnagiri to be present before this Court along with the files. The Special Tahsildar, Mr.V.Niranjan Kumar (ADW), Krishnagiri is present before this Court. The Tahsildar today filed a status report in respect of the land acquired in the year 1990. The status report reads as under:-

"1. I am the Special Tahsildar (ADW), Krishnagiri and the 2nd respondent herein and I am well acquainted with the facts and circumstances of the case from the available records in my office. I submit below this status report for this writ petition.

2. I respectfully submit that an extent of 0.56.5 hectare of private patta land in S.No.315/2 of Chandrapalli village in Bargur Taluk was acquired by the Special Tahsildar (ADW) Krishnagiri for the provision of free house sites to the poor houseless Arunthathiyars of Chandrapalli Village. Award was passed in Award No.8/1989-90 dated 20.03.1990. Possession of the acquired land was taken over on 26.06.1990 by this respondent. The acquired land was sub divided plotted and house sites pattas were issued to 24 houseless Arunthathiyars of the village on 15.11.1990.

3. It is submitted that the land owner from the very begining not co-operated the Land Acquisition enquiry and not attended for award enquiry. Hence the compensation amount of Rs.43,152/- has been deposited in the Sub Court Krishnagiri u/s 30 of LA Act in LAOP No.37/1990.

4. It is submitted that the land owner had filed a writ in W.P.No.3101/1990 challenging the Land Acquisition proceeding of the Special Tahsildar. The said writ petition was dismissed on 16.03.1990. The land owner has not preferred any appeal against the judgement of this Honourable Court.

5. It is submitted that the land owner again filed another petition in W.P.No.19654/90 challenging the Land Acquisition proceeding of this respondent. The said writ petition was also dismissed on 06.11.1992. The land owner has also not preferred any appeal and the land owner died and his son has again filed another writ petition in W.P.No.8773/2013 with same prayer. Draft counter affidavit has already been filed to this petition and this said petition is pending in the Honourable Court.

6. It is submitted that this Honourable Court has granted an order of interim injunction in M.P.No.1/2013 in 8873/2013 on 24.06.2013 and the same also been dismissed by this Honourable Court on 23.07.2013.

7. It is submitted that at present the acquired land is laying waste and 10 Arunthathiyars have proposed to construct houses and laid small thatched tents. Due to frequent fillin gof writs the beneficiaries unbale to enter in the acquired land and construct houses. Further the land owner is a powerful person in the village. Hence the beneficiaries are unable to enter in their plots. The beneficiaries are pressing the respondents to identify their plots and requested to permit them to construct houses in their plots."

8. The status report states that, the possession was already taken and the beneficiaries are in possession of the lands allotted to them and patta also had been granted in their favour. In this regard, a letter submitted by the beneficiaries is also produced before this Court wherein some of the beneficiaries have signed the letter stating that they are in possession of the land allotted to them and patta was also granted.

9. This Court is of an opinion that once the land was acquired and the award was passed and the compensation amount was already deposited in the Court. The writ petitioner cannot file writ petition after writ petition by twisting the facts and circumstances. Such a behaviour of the writ petitioner is to be deprecated. The writ petitioner instead of agitating the matter at the first instance when the writ petition was filed in the year 1990 had filed repeated writ petitions one way or other in order to stall the further proceedings used after the land acquisition.

10. Thus, the writ petitioner has abused the Judicial process and such an action can never be tolerated by this Court. However, the petitioner who is also present before this Court seems to be an innocent person in respect of the legal proceedings and therefore taking a lenient view of the matter, this Court is not inclined to impose any cost in respect of the abuse of Judicial process.

11. This Court is of an opinion that the Land Acquisition was already completed long back in the year 1990 and the beneficiaries were allotted their respective portion of the land and patta were also granted in the name of the beneficiaries. Thus, all the beneficiaries must be put on possession and they must be in position to construct houses and reside there peacefully.

12. The District Collector, Krishnagiri is directed to initiate all steps to ensure that the beneficiaries take possession of the acquired land as per the allotment made and as per the patta granted, enabling them to construct their houses. With these directions, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Collectorate, Krishnagiri District,
Krishnagiri.
2. The Special Tahsildar,
Adi-Dravidar Welfare Department,
O/o.Collectorate, Krishnagiri.
3. The President,
Anchoor Panchayat,
Anchoor Post - 635 203,
Krishnagiri District.

+lcc to Mr.M.Thangaraju, Advocate, S.R.No.74146
+lcc to the Government Pleader, S.R.No.74386

W.P.No.8773 of 2013

VD(CO)

rrs 28/11/2018

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