

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.03.2018

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THE HON'BLE MR.JUSTICE N.SESHASAYEE

W.P.No.3382 of 2010

and

MP.Nos.4 of 2010, 1 of 2011 and 1 of 2012

1. B.A.Abdul Subahan

2. Sharmila. J

(P-2 impleaded as per order dated
02.03.2018 by NSSJ in WMP.5576/2018
in WP.No.3382/2010)

... Petitioners

Vs.

1. The Secretary to Government,
Government of Tamil Nadu,
Agricultural Department,
Fort St.George,
Chennai - 600 009.

2. The Revenue Divisional Officer(Land Acquisition),
O/o.The Revenue Divisional Office,
Thanjavur.

3. The Secretary to Government of India,
Ministry of Food Processing Industries,
New Delhi.

(R-3 Suomoto Impleaded as per Order
dated 18.01.2013 by VDPD in
WP.No.3382 of 2010)

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the impugned orders in Vide G.O.(Ms) No.8, Agriculture (AU) Department, dated 12.01.2010 consequently and Notice under section 4(1) of the Land Acquisition Act, dated 12.01.2010 published in Thina Malal Tamil Daily dated 21.01.2010 as well vide G.P.Ms.No.25, Agriculture Department dated 09.02.2010 published in Thinamalar on 17.02.2010 and quash the same.

For Petitioner : Mr.Richardson Wilson
For Respondents : Mr.M.Karthikeyan
Additional Government Pleader
for R1 and R2

Mr.J.Madhana Gopal Rao,
Central Government Standing
Counsel for R3

ORDER

The first petitioner Mr.Abdul Subahan owned a block of properties comprised in Survey Nos.139/3, 140/1, 140/2, 141/1A, 1B, 141/2, 141/4, 141/6, 141/7, 141/8, 141/9, 141/10 of Nanjikkottai Village and also properties comprised in Survey No.209/4B and 209/5, Pillaiyarpatti Village, both in Thanjavur Taluk, Thanjavur District.

2. In April 2007, he sold the above said properties to Raj Educational Trust represented by the Second petitioner herein. When the said document was presented for registration before the Sub-Registry concerned, it was informed that the District Administration has directed the Sub-Registry not to entertain any sale deeds pertaining to properties of the petitioner for registration. Notwithstanding the non-registration of the sale deeds, the purchaser of property had paid the entire sale consideration to the first petitioner/original owner of the land Abdul Subahan. 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 separate set of objections dated 30.01.2010 and 03.02.2010. Ultimately, they all 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 Sec. 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-Registry, who was earlier restrained not to registered sale deeds was permitted to execute the sale deeds and accordingly, the Raj Educational Trust, represented by second petitioner, were able to have sale deeds executed and

three sale deeds were executed in the name of the second petitioner in Documents No.90/18, dated 04.01.2018; Document No. 101/18, dated 05.01.2018 and Document No.108/18, dated 05.01.2018, based on which Mrs.J.Shirmila, the purchaser, was impleaded as second petitioner.

4.In this case, both the second respondent, the beneficiary of the acquisition, the third respondent, the land acquisition authority, have filed separate counters. They defend the legality of the notification issued under Section 4(1) and declaration made under 6 (1) of the Land Acquisition Act, 1894.

5. The learned counsel for the petitioner would submit that even though the petitioner has sought issuance of Writ of Certiorari to quash, inter alia, the declaration under Section 6 of the Land acquisition Act, the petitioner would be satisfied if an award is passed in terms of the Right to Fair Compensation Act and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30/2013).

6.1 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.

6.2 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 30/2013).

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 Right to Fair compensation Act and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30/2013). With the above said direction, the petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

vv

To

1. The Secretary to Government,
Government of Tamil Nadu,
Agricultural Department,
Fort St.George,
Chennai - 600 009.
 2. The Revenue Divisional Officer(Land Acquisition),
O/o.The Revenue Divisional Office,
Thanjavur.
 3. The Secretary to Government of India,
Ministry of Food Processing Industries,
New Delhi.
- +1 CC to Mr.J. Madanagopal Rao, Advocate sr 17816.
+1 CC to Mr. Richardson Wilson, Advocate sr 17568.

W.P.No.3382 of 2010

SP(22/03/2018)



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