

THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16..08..2018

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.8909 of 2009

and

M.P.Nos.4 of 2009

and W.M.P.No.23214 of 2018

- 1.P.Ayyasamy
- 2.K.Ayyasamy
- 3.K.Ayyasamy
- 4.Krishnamoorthy
- 5.K.P.Kaliyamoorthy

..... Petitioners

-Versus-

- 1.The District Collector,
Perambalur District,
Perambalur.
- 2.The Special Tahsildar (ADW),
Perambalur,
Perambalur District.
- 3.Jamuna Rani*

[*Impleaded as per order dated 16.08.2018 in
W.M.P.No.19319 of 2018]

..... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records pertaining to the order passed by the 1st respondent in Perambalur District Gazette dated 17.10.1997 and to quash the same.

For Petitioner

: Mr.S.Mani

For Respondents

: Mr.D.Raja, AGP for R1
and R2

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For Petitioner

: Mr.S.Mani

: Mr.G.Prabhu for R3
(WMP.19319/2018)

ORDER

Challenging the notification issued under Section 4(1) of The Tamil Nadu Harijan Welfare Schemes Land Acquisition Act, 1978 [Tamil Nadu Act 31 of 1978] by the 1st respondent, the petitioners have come up with this writ petition.

2. The case of the petitioners in brief is that they are the owners of vast extent of land in Maravanatham Village, Perambalur Taluk and District. Earlier, a proceedings was initiated for acquisition of lands in the year 1995 under the provisions of The Tamil Nadu Land Acquisition Act, 1894 for the purpose of provision of house sites to Adi Dravidas of Maravanatham Village. Challenging the land acquisition proceedings, the petitioners had filed writ petitions before this court and the same were allowed. Subsequently, another proceedings has been initiated under The Tamil Nadu Harijan Welfare Schemes Land Acquisition Act, 1978 [in short 'Act 31 of 1978']. Challenging the notification issued under Section 4(2) of the Act, the petitioners filed W.P.No.19480 of 1997 and the same was pending. While so, a notification under Section 4(1) of the Act 31 of 1978 has been issued. Therefore, this court by order dated 02.08.2004 disposed of the writ petition giving liberty to the petitioner to challenge the notification issued under Section 4(1) of the Act 31 of 1978. Since, a copy of the 4 (1) Notification was not furnished to the petitioners, they had approached this court with W.P.No.35207 of 2004 seeking for a direction to the respondent to furnish a copy of the notification. Further, according to the petitioner, even thereafter, no copy of notification was furnished to them. Therefore, they were constrained to file another writ petition in W.P.No.16278 of 2005 seeking a mandamus forbearing the respondents from dispossessing the petitioners from their lands. This court, by order dated 17.03.2009, disposed the writ petition with a direction to the 2nd respondent to furnish the copy of the 4(1) Notification within a period of four weeks. At last, the petitioners were able to get a copy of the 4(1) notification. It is the said notification now under challenge in this writ petition.

3. I have heard the learned counsel for the petitioner, learned Additional Government Pleader for the respondents 1 and 2 and the learned counsel for the 3rd respondent and also perused the records carefully.

4. The petitioners challenge the notification mainly on the ground that no notice under Section 4(2) of the Act 31 of 1978 was issued to them to enable them to raise their objections and no enquiry has been conducted by the 1st respondent before the publication of official notification under Section 4(1) of the Act 31 of 1978.

5. The learned counsel for the petitioner would submit that the respondents 1 and 2 without conducting any enquiry whatsoever as contemplated under Section 4(2) of the Act 31 of 1978 have published the impugned notification under section 4(1) of the Act in violation of the provisions in Section 4 of the Act and in total violation of principles of natural justice.

6. Per contra, the learned Special Government Pleader for the respondents 1 and 2 would submit that notice was issued by the respondents to the petitioners under Section 4(2) of the Act and thereafter, an enquiry was also conducted wherein the petitioners have raised their objections in writing. The 1st respondent after having considered the objections passed a detailed order rejecting the objections of the petitioners. Thereafter, final notification under Section 4(1) of the Act 31 of 1978 has been published by the 1st respondent in the District Official Gazette. He has also produced the entire records relating to the acquisition proceedings.

7. I have considered the rival submissions.

8. From a careful perusal of the records, it could be seen that notice as required under Section 4(2) of the Act was issued to the petitioner and the petitioners, in turn, made their objections in writing. The 1st respondent after having considered the objections of the petitioners, passed a detailed order on 18.09.1997 rejecting the objections of the petitioner. Only thereafter, the impugned notification under Section 4(1) of the Act 31 of 1978 has been published in the District Gazette. Therefore, the contention of the petitioners that they were not served with any notice as required under Section 4(2) of the Act and principles of natural justice were not followed by the authorities, cannot be countenanced. This court does not find any illegality or irregularity in the acquisition proceedings much less in the notification issued under Section 4(1) of the Act 31 of 1978 warranting interference at the hands of this court. The petitioners have not raised any other valid ground challenging the notification. Thus, this court does not find any merit in the writ petition and the writ petition deserves only to be dismissed.

9. In the result, the writ petition is dismissed. No costs. Consequently, connected MPs and WMP are closed.

Sd/-
Assistant Registrar(CO)

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Sub Assistant Registrar

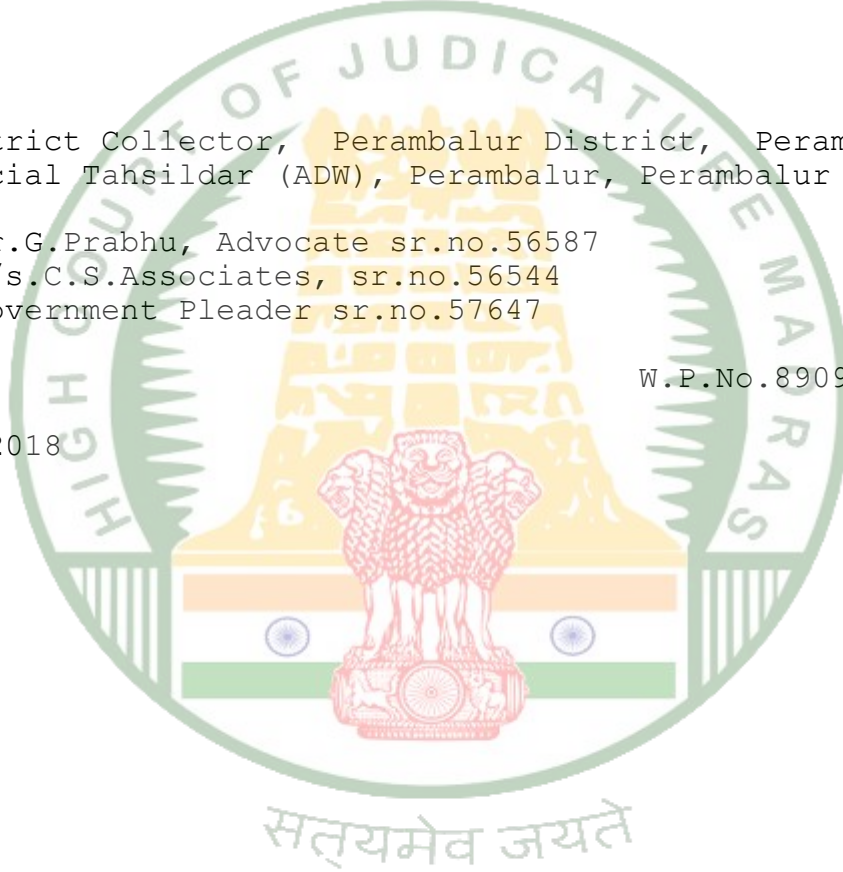
To

- 1.The District Collector, Perambalur District, Perambalur.
- 2.The Special Tahsildar (ADW), Perambalur, Perambalur District.

+4cc to Mr.G.Prabhu, Advocate sr.no.56587
+1cc to M/s.C.S.Associates, sr.no.56544
+1cc to Government Pleader sr.no.57647

W.P.No.8909 of 2009

nr 05/09/2018



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