

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
Reserved on : 06.02.2018  
Pronounced on : 20 .03.2018

CORAM :

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A No.281 of 2009

and

M.P.No.1 of 2009 & CMP.No.10446 of 2017

R.Velusamy ... Appellant/Petitioner  
Vs.

1.The State of Tamil Nadu,  
Rep. by Deputy Secretary,  
(Adi Dravidar & Tribal Welfare Department),  
Fort St. George, Chennai - 600 009.

2.The Special Tahsildar (LA),  
Adi Dravidar Welfare, Trichy.

3.A.Chinnathurai

4.The District Collector,  
Trichy District, Trichy. ... Respondents/Respondents

PRAYER :- Writ Appeal filed under clause 15 of Letters Patent,  
against the order made in W.P.No.11526 of 2001 dated 19.12.2008.

WP.No.11526 of 2001:Petition filed under Article 226 of the  
Constitution of India praying for the issuance of a Writ of  
Certiorari calling for the records of the first respondent in  
connection with Gazettee publication of G.O.No.143 Adi Dravidar  
and Tribal Welfare, dated 04/08/1995 and proceedings in  
Na.Ka.No.W6/12300/2001 dated 01/04/2001 published on 18/04/2001  
and quash the same.

For Appellant : Mr.C.V.Vijayakumar for  
Mr.T.R.Rajaraman

For R1, R2 & R4: Mr.A.Srijayanthi  
Special Government Pleader

For R3 : Mr.K.Subburam - No appearance

\* \* \* \* \*

## J U D G M E N T

P.VELMURUGAN, J.

The Writ Appeal is filed against the order dated 19.12.2008 in W.P.No.11526 of 2001, dismissing the writ petition challenging the land acquisition.

2.The brief facts of the appellant's case in the writ petition is as follows :-

(i) Notice under Section 4(2) of Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (herein after referred to as "the Act"), was issued by the Special Tahsildar/Second respondent herein to the appellant for the acquisition of land owned by him in S.No.304/1F, an extent of 0.15.0 Hectares lands situated in F-Keelaiyoor Manapparai Taluk, Trichy District for the purpose of providing path way to the cremation ground of Adi-Dravidars of the aforesaid Village.

(ii) The appellant appeared in person and filed his objections on 31.01.2001 stating that already cremation ground for Harijans is available in the Village next to the Harijan Colony in S.No.307/1, to an extent of 0.48.0 Hectares and poramboke lands in S.No.301/3, an extent of 0.28.5 Hectares is lying vacant in the village adjacent to road is also available for putting up a new cremation ground for Harijans near Harijan Colony. The appellant is a small farmer cultivating the land sought to be acquired and as such, acquisition is unwarranted.

(iii) In the District Gazette dated 18.04.2001, the declaration under Section 4 (1) of the Tamil Nadu Land Acquisition of Land for Harijan Welfare Schemes Act, 1978 in respect of acquisition of appellant lands was issued by stating that the Government of Tamil Nadu consider that the lands sought to be acquired are required for providing cremation ground for Adi-Dravidars of the F-Keelaiyoor Manapparai Taluk, Trichy District.

(iv) The appellant filed a Writ Petition in W.P.No.11526 of 2001, challenging the acquisition proceedings. Interim Order of dispossession was granted and the same was made absolute on 16.12.2001.

(v) After hearing the arguments of both sides, the Learned Single Judge of this Court dismissed the Writ Petition. Aggrieved against the said order the appellant filed the present appeal before this Court.

3. Heard the learned counsel for the appellant and the learned Special Government Pleader for the respondents 1, 2 and 4.

4. In order to acquire lands for forming cremation ground for Adi-Dravidars in F-Keelaiyoor Manapparai Taluk, Trichy District, the District Collector nominated the second respondent/Special Tahsildar, to conduct an enquiry and authorised him to issue notice under Section 4(2) of the Act. Accordingly, notice was issued to the appellant. The appellant entered appearance before the Second respondent and made his objections. The second respondent after considering the objections raised by the appellant over ruled it and sent a report to the fourth respondent.

5. After considering the entire facts, the fourth respondent/ District Collector over ruled the objections raised by the appellant and accepted the recommendations made by the second respondent. The appellant challenged the notification issued under Section 4 (1) of the Act published in District Gazette dated 18.04.2001. Initially, this Court granted stay and subsequently made it absolute. After going through the files, the writ petition was dismissed on merits by following the Full Bench Judgment of this Court in the case of R.Pari Vs The Special Tahsildar (ADW), Devakottai and another reported in 2006 (4) CTC 609.

6. The main contention of the appellant is that the Harijans community is having a cremation ground and in the said village there is a poramboke land also available. The appellant is a small farmer and he is having a small piece of land measuring to an extent of only 0.15.0 hectares for cultivation and he is raising crops in the said land. The said objection has not been considered by the Tahsildar. The District Collector has not applied his mind and independently not considered the objection and simply rejected the objection raised by the appellant.

7. The contention of the respondents is that after receiving the objections, detail enquiry was made by the second respondent and it is found that these lands originally belong to the Schedule caste community and a portion of the land was used as burial ground. There is no dispute that from 1924 till the forefathers of the appellant purchased the above said property, and even after purchasing the property, they allowed the Harijans people to bury the dead bodies. Later on, the appellant got possession of the land after the partition effected between the co-owner. The appellant objected the Harijans to bury the dead bodies and that is the reason why the Harijans made representation before the District Collector for providing burial ground to their community. The District Collector made an elaborate enquiry and satisfied that the Harijan Community of the village did not have a separate burial ground. The place where they used to bury the dead bodies was objected by the appellant. The District Collector after satisfying the reasons authorised the second respondent to make

an enquiry. Accordingly, the second respondent made an enquiry and submitted his report.

8. It is not the case of the appellant that he was not given an opportunity to make his representation and also violated the procedure as contemplated under the said Act. The main grievance is that the appellant is a small farmer, and alternative poramboke land is available for burial ground. The above said objections were raised throughout and it was overruled by giving reasons.

9. On a perusal of records, it is found that the second respondent meticulously conducted enquiry and satisfied that the Harijan Community did not have any separate burial ground in the said village and poramboke land identified by the appellant was not suitable for formation of cremation ground. Further, the Special Tahsildar in his recommendation stated that the acquired land is adjacent to the Harijan Colony where already dead bodies of the Harijan Community people were buried.

10. Considering the facts and circumstances, the objections raised by the appellant was rejected and the same was overruled. The District Collector after considering the background facts published the notification in the District Gazette dated 18.4.2001. The Learned Single Judge relied on the decision rendered by the Hon'ble Full Bench of this Court and dismissed the writ petition.

11. In view of the above discussion, we are of the considered view that the prayer sought for by the appellant deserves no merits and acceptance. We find no valid reasons to interfere with the order passed by the learned Single Judge. Therefore, the appeal is liable to be dismissed.

12. In the result, the writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CS VI)  
//True Copy//  
Sub Assistant Registrar

ah/tar

To

1.The Deputy Secretary,  
(Adi Dravidar & Tribal Welfare Department),  
Fort St. George, Chennai - 600 009.

2.The Special Tahsildar (LA),  
Adi Dravidar Welfare, Trichy.

3.The District Collector,  
Trichy District, Trichy.

+1 cc to Mr.T.R.Rajaraman Advocate sr 20787

+1 cc to the Government Pleader High Court Madras  
sr 21852

+1 cc to Mr.K.Subburam Advocate sr 21216

W.A No.281 of 2009

nrl(co)  
aa10/04/2018



WEB COPY