

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2018

CORAM: THE HONOURABLE MR. JUSTICE N. SESHASAYEE

W.P.No.10368 of 2004

and

W.M.P.No.12085 of 2004

Mr. C. Muthukrishnan

...Petitioner

Versus

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Fort St. George, Chennai - 9.
2. The District Collector,
Erode District, Erode - 11.
3. The Special Tahsildar, (L.A),
Adi Dravidar Welfare,
Kangayam, Erode District. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records pertaining to the proceedings of the second respondent made in Reference No.85834/2003(T-3) dated 03.03.2004 published in the Erode District Gazette Extraordinary No.12 dated 05.03.2004 quash the same by allowing this Writ Petition.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.A.Zakir Hussain,
Government Advocate

O R D E R

The case of the petitioner is that he owned a piece of agricultural land measuring 0.27.5 Hectares in Survey No.980 of 5 of Pallapalayam Village, Perundurai Taluk, Erode District and that this piece of property was his ancestral property, which he obtained under a family partition dated 27.05.1996.

That land was under cultivation continuously and the Government proposed to acquire the land under the provisions of the Tamilnadu Acquisition of Land for Harijan Welfare Schemes Act, 1978.

2. The grievance expressed by the petitioner is that as per the statute, before a Notification under Section 4(1) of the Act was issued, there should be an enquiry under Section 4(2) by the Collector or such authority who he nominates on his behalf and there shall be a personal satisfaction and recommendation made in such enquiry report under Section 4(3) of the Act before the Collector making recommendation to issue Notification under Section 4(1) of the Act. According to the petitioner, while an enquiry was conducted by the Special Tahsildar/third respondent herein dated 27.10.2003 under Section 4(2) of the Act and the report was made available on 01.12.2003, the Collector has mechanically recommended to the Government after issuing Notification under Section 4(1) without satisfying himself about the merit of the recommendations made in the enquiry report as required under Section 4(10) of the Act.

3. All the counter affidavits and additional counter affidavits are filed by the second respondent, but the same is silent as to the compliance of the recommendations mandated under Section 4(3) of the Act by the Collector. The third respondent is personally present before this Court along with the files and the Court had an advantage of perusing the files.

4. After carefully perusing the files, this Court is satisfied that this Collector/second respondent has skipped one step as envisaged under Section 4(3) of the Act and rushed to make a recommendation to the Government and issued Notification under Section 4(1).

5. Eventhough, the third respondent made available the enquiry report under Section 4(2) of the Act to the Collector, it is now settled that the personal satisfaction of the Collector about the need for acquisition of land as recommended in the enquiry report made under Section 4(2) of the Act, is mandatory and its violation will render the Notification issued under Section 4(1) invalid. Therefore, this Court has little hesitation in quashing the impugned notification. If, however, the respondents wants to acquire the land, they are free to follow such proceedings as contemplated by the law in force.

6. Accordingly, this Writ Petition is allowed and the proceedings of the second respondent made in Reference No.85834/2003 (T-3) dated 03.03.2004 is hereby quashed. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mrr

To

1. The Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Fort St. George, Chennai - 9.
2. The District Collector,
Erode District, Erode - 11.
3. The Special Tahsildar, (L.A),
Adi Dravidar Welfare,
Kangayam, Erode District.

+1 CC to Mr.N.Manokaran, Advocate Sr.No.3916

+1 CC to Government Pleader, High Court, Chennai Sr.No.4091

सत्यमेव जयते

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KP(27/02/2018)

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