

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 27.08.2018

Judgment Delivered on : 04.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.A.No.323 of 2012 against W.P.No.13310/99
and
M.P.No.1 of 2012

Mrs.Ummukoludam Beevi ... Appellant/Petitioner

Vs.

1. The District Collector,
Ramanathapuram.

2. The Special Tahsildar (ADW),
Ramanathapuram-623 501. ... Respondents/Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 06.01.2009 passed by the learned Single Judge in W.P.No.13310 of 1999 .
W.P.No.13310/99:

The 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 pertaining to the notification in the Ramanathapuram District Gazette No.1, dated 10.01.1996 issued under section 4(1) of the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act, 1976 and quash the same in so far as it is concerned with the petitioner's land comprised of 1.20.5 Hectare situated in S.No.159/2,3 and 6, Sakkarakottai Village, Ramanathapuram District in 4(1) notification of No.1, Ramanathapuram District dated 10.1.1996.

For appellant : Mr.R.Veeramani

For respondents : Mr.V.Anandhamurthy, Addl.G.P.

JUDGMENT

R.SUBBIAH, J

This Writ Appeal has been filed as against the order dated 06.01.2009 passed by the learned Single Judge in W.P.No.13310 of 1999, whereby and whereunder, the learned Single Judge has dismissed the Writ Petition filed by the appellant/writ petitioner praying to quash the Notification issued under Section 4(1) of the Tamil Nadu Acquisition of Land for Harijan

Welfare Schemes Act.

2. The case of the appellant/writ petitioner before the learned Single Judge is that she is the owner of agricultural Punja land of an extent of 1.20.5 hectares in S.No.159/2, 3 and 6 of Sakkarakottai Village, Ramanathapuram District. She has been in possession of the land and cultivating paddy in rainy season and Punja cultivation in the other season. A notice dated 17.10.1995 was received by the earlier purchaser of the land, namely one Reghuman Beevi, under the said Act, from the second respondent, expressing their intention to acquire the land under the said Act and called for objections. Though the petitioner submitted her objection, without considering the same and without even conducting any enquiry, the Notification under Section 4(1) of the said Act was published in the Ramanathapuram District Gazette, dated 10.01.1996. Since the respondents are trying to dis-possess the petitioner, the present Writ Petition is filed by the appellant/writ petitioner.

3. The Writ Petition was opposed by the second respondent by filing detailed counter affidavit stating that the land in question is meant purely for the welfare of Adi Dravidars, to provide house-sites to them. No other alternative land was found suitable to concede the long felt need of 199 families of Adi Dravidar house-less poor of Sethu Nagar, Sakkarakottai Group. The Government considers the public interest than the individual interest and claim. Due opportunity has been given to the petitioner regarding acquisition of land and the formalities have been followed.

4. After hearing both sides, the learned Single Judge has dismissed the Writ Petition. Aggrieved by the same, the appellant/writ petitioner has filed this Writ Appeal.

5. It is the submission of the learned counsel for the appellant/writ petitioner that the prescribed authority has not considered the objections of the writ petitioner and without conducting due enquiry, the authority has forwarded the report to the first respondent-District Collector and the copy of the said report has also not been furnished to the appellant/writ petitioner. Therefore, the impugned Notification is published in violation of the principles of natural justice. Hence, he prayed that the impugned order passed by the learned Single Judge may be set aside.

6. The learned Additional Government Pleader appearing for the respondents submitted that it is incorrect to say that the appellant was not given any opportunity. In fact, the notice dated 17.10.1995 was issued, besides wide publicity by beating of Tom Tom and affixture of notices in the conspicuous places in the area. The petitioner's sons have appeared before the Special Tahsildar (Adi Dravida Welfare), Ramanathapuram, on 25.03.1996 and filed their objections in writing. Thus, reasonable opportunity was given to the petitioner before publishing the impugned Notification.

7. Keeping in mind the above submissions of the learned counsel appearing for the parties, we have carefully perused the materials available on record.

8. Learned counsel for the appellant/writ petitioner relied on a Full Bench judgment of this Court reported in 2006 (3) L.W. 1000 = 2006 (4) CTC 609 (R.Pari Vs. The Special Tahsildar, Adi Dravidar Welfare, Devakkottai), wherein it was observed as follows:

"43. In view of the aforesaid discussion, our conclusions are as follows:

The owner should be furnished with a copy of the report/recommendation of the authorised officer. Thereafter, he should be given two weeks' time to make further representation, if any, before the District Collector. It is not necessary for the District Collector to give a further personal hearing or make any further enquiry. However, mere non-furnishing of the report would not have the ipso facto effect of vitiating the proceedings and the question of prejudice to the land owner is required to be considered in each case depending upon the facts and circumstances. The District Collector is expected to reflect the reasons, but merely because the communication to the land owner does not contain the reasons, the decision of the Collector is not ipso facto vitiated and it would always open to the concerned authority to prove before the Court, if such action of the Collector is challenged, that there has been application of mind and the reasons are available in the relevant records relating to such acquisition. The necessity to record the reasons is applicable where the Collector himself makes the enquiry and also where the Collector takes an appropriate decision on the basis of the report/recommendation made by the authorised officer."

9. A reading of the above judgment of the Full Bench shows that the authorised officer should give a copy of the report and he should also give an opportunity of hearing and on completion of the enquiry, the report should be given to the land owner. Thereafter, it is not necessary for the District Collector to give any further hearing.

10. In the instant case, the sons of the appellant/writ petitioner appeared for the enquiry and the objections were considered and only thereafter, the report was signed by the

authorised officer/District Collector. Therefore, absolutely it is not necessary for the District Collector to give further opportunity to the appellant/writ petitioner. In fact, the learned Single Judge, by following the dictum laid down by the Full Bench in the abovesaid decision, has dismissed the Writ Petition by a well-considered order, which needs no interference by us.

11. Hence, there is no merit in the Writ Appeal, which is accordingly dismissed. No costs. Consequently, the Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-V)

// True Copy//

Sub Assistant Registrar

CS

To

1. The District Collector,
Ramanathapuram.
2. The Special Tahsildar (ADW),
Ramanathapuram-623 501.

W.A.No.323 of 2012

RJ(CO)
RMP(27/09/2018)

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