

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 27.07.2018
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.33033 of 2007

1.T.K.Appachi
2.C.Palanisamy
3.C.Muthusamy

... Petitioners

Vs.

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Industries Department,
Fort St.George, Chennai - 600 009.

2.The Revenue Divisional Officer,
Erode, Erode District.

3.The Tahsildar,
Perundurai Taluk,
Erode District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the second respondent to pass an order on the enquiry conducted by the second respondent as per his proceedings No.Na.Ka.7673/88/A-3, dated 03.03.2003.

For Petitioners : Mr.C.Prakasam

For Respondents : Mr.K.Ravi Kumar

Additional Government Pleader

O R D E R

The petitioners have filed this writ petition seeking issuance of Writ of Mandamus directing the second respondent to pass an order on the enquiry conducted by the second respondent as per his proceedings in No.Na.Ka.7673/88/A-3, dated 03.03.2003.

2.The case of the petitioners is that the petitioners are the owners of the lands bearing S.Nos.98/1, 129/1, 129/2, 132 and 138 of Vadamugam Kangayampalayam Village, Perundurai Taluk, Erode District and pattas of the said lands stand in the names of the petitioners. The petitioners acquired the lands for the purpose of establishing a Ginning Factory.

3.It is the further case of the petitioners that during the year 1989, the respondent issued a Notification under Section 4 (1) of the Land Acquisition Act in G.O.Ms.No.514, Industries (SICI), dated 02.08.1989. Thereafter the respondents conducted enquiry under Section 5-A of the Act and in spite of the petitioners' objection, passed Declaration under Section 6 of the Act.

4.It is the further case of the petitioners that they made application to the Government requesting them to re-convey the land on 15.10.1999 but no orders have been passed by the respondent. Hence, they once again made application under Section 48-B of the Land Acquisition Act on 01.12.2000 but no orders have been passed by the respondent. Hence, they filed writ petition in W.P.No.590 of 2001 and this Court vide order dated 11.01.2001 directed the respondent therein to consider their applications. Thereafter, the second respondent passed orders rejecting their applications.

5.It is the further case of the petitioners that the second respondent have no jurisdiction to pass orders on the application under Section 48-B of the Land Acquisition Act and only the Government have the power to pass orders on the same. Hence, the petitioners filed W.P.No.25850 of 2001 and this Court vide order dated 18.01.2002 allowed the writ petition. Thereafter, the second respondent vide notice dated 03.03.2003 called upon the petitioners to appear before him and the petitioners also attended the enquiry before the second respondent on 01.04.2003 and the second respondent had submitted his report to SIDCO as well as to the first respondent. However, no orders were passed by the first respondent. Hence, the petitioners have come forward with this writ petition.

6.Heard the arguments advanced on either side and perused the materials available on record.

7.It is useful to extract hereunder the relevant portion of the order dated 18.01.2002 made in W.P.No.25850 of 2001:

"3.I have also heard the learned Government Pleader. It is not disputed that the appropriate authority to pass the order under Section 48 B of the Act would be only the Government and not the authority who has now passed the impugned order. It is also seen that in WP No 590 of 2001, the only respondent who was impleaded was the Government and the direction of this Court is only to the Government to pass appropriate orders.

4.Therefore, the impugned order passed

at the instance of the second respondent, cannot be sustained. In the result, the above writ petition is allowed with a liberty to the respondent to proceed further in accordance with law. It is open to the Government to pass appropriate order after giving a notice to the petitioner. Till appropriate orders are passed by the Government as aforementioned, the possession of the petitioner shall not be disturbed, if the petitioner is continuing in possession of the property."

8. Mere sending of call notice will not give right to the petitioners to raise a writ petition. However, if any decision is taken pursuant to the call notice, the petitioners may challenge the same, if so advised. Subsequent to the call notice, if any decision is taken, the same shall be communicated to the petitioners.

9. With the above observation, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy//

Sub Assistant Registrar

To

1. The Government of Tamil Nadu,
Rep. by its Secretary,
Industries Department,
Fort St. George, Chennai - 600 009.

2. The Revenue Divisional Officer,
Erode, Erode District.

3. The Tahsildar,
Perundurai Taluk,
Erode District.

+1 cc to MR.C.PRAKASAM, Advocate SR.No.51462
+1 cc to Government Pleader SR.No.51860

W.P.No.33033 of 2007

SMI/28.08.2018