

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K. SASIDHARAN

and

THE HONOURABLE MR.JUSTICE P. VELMURUGAN

W.A.No.1082 of 2016

and CMP No.14106 of 2016

1. The Secretary,
Erode Agricultural Regulation Market Committee,
Thindal, Erode-12
 2. The Superintendent,
The Agricultural Regulated Market Committee,
Thalavadi-638 461
- Appellants

-vs-

1. State of Tamil Nadu,
rep by its Secretary,
Department of Agriculture,
(AM2) Department, Fort St. George,
Chennai - 600 005
2. K. Abdul Wahab (died)
3. R. Krishnaveni
4. Navaneetham
5. Nashir Husain
(Impleaded as 5th respondent vide order
dated 09.01.2018 in CMP No.17314/2017)

..... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent against the order passed in W.P No. 28420 of 2012 dated 05.02.2013.

WP.No.28420/2012 filed under Article 226 of Constitution of India for the issuance of writ of certiorari to call for records relating to the proceedings in RC.No.3/3033/86, dated 18.01.2012 on the file of 2nd respondent herein and quash the same.

For Appellant	:	Mr.Jayaprakash Narayanan
For R.1	:	Ms.A. Srijayanthi
		Spl.G.P
R.2	:	Died
For R.3 to R.5	:	No appearance

JUDGMENT

[Judgment of the Court was delivered by
K.K. SASIDHARAN,J.]

The Government originally acquired 1.74 acres of land in Survey No.479/6 of Thalavadi Village, Sathyamangalam Taluk, Erode District for putting up Thalavadi Agricultural Regulated Market Committee on behalf of Erode Market Committee. The land acquisition was withdrawn, pursuant to the request made by the land owners. The land owners agreed to surrender 0.65 cents of land in Survey No.479/6 and permitted the Government to go ahead with the acquisition. The Government, accordingly, passed an Order in G.O.Ms.No.396 dated 28.12.2001.

2. The Government acquired 0.65 cents of land in Survey No.479/6 and handed over possession to the appellants. The appellants, after taking possession of the land, in question, established a market. The Secretary of the Committee, at a later point of time, by letter dated 18.01.2012, called upon the land owners to execute a Gift Deed in respect of 0.65 cents of land, failing which, it was indicated that action would be taken to acquire the entire land. The said letter was challenged by the land owners in W.P No.28420 of 2012.

3. The learned Single Judge quashed the impugned letter dated 18.01.2012 on the ground that Erode Market Committee has no authority to make a demand for execution of Gift Deed, pursuant to the Government Order. Since certain observations were made by the learned Single Judge, with respect to acquisition of land, the appellants have filed a Review Application in Rev.Appln.(W)No.341 of 2014. The Review Application was dismissed by the learned Single Judge. Feeling aggrieved, the appellants have come up with this intracourt Appeal.

4. The learned standing counsel for the appellants contended that the Government has already acquired 0.65 cents of land in Thalavadi Village and handed over the same to the appellants. The Secretary of the Erode Market Committee, under a mistaken impression, called upon the land owners to give 0.65 cents of land and that was the basis for filing the writ petition. According to the learned Standing Counsel, since the land has already been acquired, there was no need to gift the land by the land owners to the Market Committee and the letter was unwarranted.

5. None appeared for the respondents 2 to 5 inspite of printing their names in the cause list.

6. The Government initially issued a Notification for acquiring 1.17.5 hectares of land in Survey Nos.407/2B and 479/6 of Thalavadi village. The land owners in their

representation to the Government submitted that they were not aware of the acquisition and purchased the land for constructing shops and also for residential purpose. The land owners, therefore, requested the Government to exempt the land from land acquisition. The land owners made an agreement with the Government, in and by which, they agreed to surrender 0.65 cents of lands in Thalavadi village, so as to enable the Government to hand over the same to Erode market Committee. The Government, pursuant to the said agreement, issued an Order in G.O.Ms.No.396 dated 28.12.2001. The Government, thereafter, acquired 0.65 cents of land, owned by the land owners and handed over the possession to the Erode Market Committee.

7. The Erode Market Committee, after taking possession, utilised the land for the purpose of storing agricultural products. The Secretary of the Erode Market Committee, under a mistaken impression, issued the impugned letter dated 18.01.2012, calling upon the land owners to execute a Gift Deed for an extent of 0.65 cents of land. There was no need for such a demand in view of the fact that the Government had already acquired 0.65 cents of lands and handed over the same to the Erode Market Committee. This fact was not disclosed to the learned Single Judge and that was the reason for quashing the impugned letter dated 18.01.2012 with an observation that it is open to the State Government to acquire the land in question, for and on behalf of the Erode Market Committee.

8. Since the Government has acted pursuant to the Government Order in G.O.Ms.No.396 dated 28.12.2001, there is no need for a further acquisition of land, as indicated in the order passed by the learned Single Judge.

9. While confirming the order passed by the Writ Court, quashing the impugned letter dated 18.01.2012, we set aside the observation made by the learned Single Judge and the direction to the Government to acquire the land once again. We make it clear that there is no need to execute a Gift Deed in view of the acquisition of 0.65 cents of lands pursuant to the Government Order in G.O.Ms.No.396 dated 28.12.2001 and handing over possession of the land to the appellants.

10. The intracourt appeal is allowed to the extent indicated above. No costs. Consequently, connected CMP is closed.

sr

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary,
State of Tamil Nadu,
Department of Agriculture,
(AM2) Department, Fort St. George,
Chennai - 600 005
2. The Secretary,
Erode Agricultural Regulation Market Committee,
Thindal, Erode-12
3. The Superintendent,
The Agricultural Regulated Market Committee,
Erode Agricultural Regulation Market Committee,
Thalavadi-638 461

+lcc to Government Pleader SR.No.4095

GMI (CO)
sm:16.2.2018

W.A.No.1082/2016



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