

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2018

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THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P. 32424 of 2004

and

W.M.P. 39279 of 2004

1. G.Narayanan
2. G.Srinivasan Naidu
3. Kadirinarasimhan
4. Rukmani
5. Narasammal ... Petitioners

Vs

1. The State of Tamil Nadu,
rep. by the Secretary to
Government,
Public Works Department (Irrigation),
Fort St. George,
Chennai-600 009.
2. The Revenue Divisional Officer
and Land Acquisition Officer,
Krishnagiri-635 001. Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the Notification under Sec.4(1) of the Act made in Na.Ka.No.19704/2002/B2 dated 14.08.2002 and published in the Dharmapuri District Gazette and the Declaration under Sec.6 of the Act made in G.O.Ms.No.496, Public Works (S-2) Department dated 13.11.2003 and published in the Tamil Nadu Government Gazette on 14.11.2003 and quash the same so far as they relates to the hands of the petitioner measuring 0.30.0 hectares in S.No.71/2, Chinnamattarapalli Village, Krishnagiri Taluk, Dharmapuri District.

For Petitioner : Mr.V.Nicholas

For Respondents : Mr.M.Elumalai,
Government Advocate

O R D E R

1. The Writ Petition has been filed for challenging the land acquisition proceedings initiated by the respondents.

2. The grievance of the petitioner is that they are the owners of the property in Survey No.71/2, Chinnamattarapalli Village, Krishnagiri Taluk, Dharmapuri District to an extent of 2.72 acres. Out of which, the respondents have initiated the proceedings for acquiring their lands to an extent of 0.30.0 hectares for formation of new water channel from the existing channel of Rangappanaicken tank. A notification under Sec.4(1) of the Land Acquisition Act (Central Act 1 of 1894) (hereinafter called as 'Act') was published on 14.08.2002 and it was published in the local daily on 17.09.2002. Thereafter, a declaration under Sec.6 of the Act was issued on 03.11.2003 and the same was published in the Government Gazette on 14.11.2003.

3. According to the petitioner, the declaration under Sec.6 of the Act was made after the expiry of one year period from the date of publication of notification under Sec.4(1) of the Act and in view of the proviso to Sec.6 (1) (ii) of the Act, the respondents are barred from issuing the Sec.6 declaration and hence, the declaration is barred by limitation. Therefore, it is liable to be set aside.

4. The learned counsel appearing for the respondents had produced the entire records relating to the acquisition proceedings. On perusal of the records, it could be seen that Sec.4(1) notification was issued on 14.08.2002 and it was published in the Government Gazette on 22.09.2002. Thereafter, it was published in two local dailies on 18.09.2002 and the substance of the notification was published in the locality on 15.11.2002. After completing all the formalities, the declaration under Sec.6 of the Act was issued on 13.11.2003 and it was published in the Government Gazette on 14.11.2003.

5. The learned counsel appearing for the respondent would further submit that the limitation for calculating the one year period only starts from the date of publication of notification in the locality and the notification was published in the locality on 15.11.2002. Hence, the declaration is issued well within the time i.e. on 14.11.2003 and it is not barred by limitation.

6. I have considered the rival submissions and perused the materials available on records carefully.

7. As per the records submitted by the respondents clearly reveal that the substance of the notification under Sec.4(1) of the Act was published in the locality on 15.11.2002. As per Sec.4 of the Act, the last date of the said publication and giving up the public notice is to be taken as the date of publication of notification under Sec.4 for the purpose of calculating the limitation. As rightly contended by the learned counsel appearing for the respondent, the limitation for declaration was issued under Sec.6 of the Act starts from that date and subsequently, the declaration was issued on 13.11.2003 and the same was published in the Government Gazettee on 14.11.2003, which is within the period of one year from the date of publication of notification in the locality. In the said circumstances, the declaration under Sec.6 of the Act is issued within a valid period of one year. Hence, the contentions made by the learned counsel for the petitioner cannot be countenanced.

8. On considering the facts and circumstances, I am of the view that there is no merit in the Writ Petition and hence, the present Writ Petition stands dismissed. Consequently, the connected Miscellaneous Petition is also closed. No costs.

Sd/-

Assistant Registrar (CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary, the State of Tamil Nadu,
Public Works Department (Irrigation),
Fort St. George,
Chennai-600 009.

2. The Revenue Divisional Officer
and Land Acquisition Officer,
Krishnagiri-635 001.

+1cc to Mr.V.Nicholas , Advocate SR.No. 60010
+1 CC TO GOVERNMENT PLEADER SR.NO. 60622

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ASK(16/10/2018)