

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.24064 of 2006

And

M.P.No.2 of 2006

R.Raghuraman

... Petitioner

Vs.

1.The District Collector,
Sathuvachari, Vellore - 9,
Vellore District.

2.The Land Acquisition Officer,
Gudiyatham Taluk,
Now Katpadi Taluk,
Vellore District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for proceeding in Award No.17/98-99 dated 29/1/1999 from the file of the 2nd respondent the Land Acquisition Special Tahsildar Office, Gudiyatham Taluk, now in Katpadi Taluk and quash the same in respect of Karasamangalam S.No.8/1 0.04.0 cents S.No.8/2A 0.02.0 cents S.No.9/3B 0.12.0 cents, S.No.9/4A 0.02.5 cents, S.No.9/4B 0.02.5 cents, S.No.9/4C 0.01.0 cents, S.No.9/4D 0.01.0 cents, S.No.9/4E 0.02.5 hectares of land and forbearing respondents from allotting house sites to Arunthathiyars.

For Petitioner : Mr.P.Ganapathy
For Respondents : Mr.R.Govindasamy
Special Government Pleader

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for proceedings in Award No.17/98-99 dated 29.01.1999 from the file of the second respondent and to quash the same in respect of Karasamangalam S.No.8/1 0.04.0 cents S.No.8/2A 0.02.0 cents S.No.9/3B 0.12.0 cents, S.No.9/4A 0.02.5 cents, S.No.9/4B 0.02.5 cents, S.No.9/4C 0.01.0 cents, S.No.9/4D 0.01.0 cents, S.No.9/4E 0.02.5 hectares

of land and forbearing respondents from allotting house sites to Arunthathiyars.

2.The case of the petitioner is that the petitioner is owning irrigated dry land in Karasamangalam in S.No.8/1 0.04.0 cents S.No.8/2A 0.02.0 cents S.No.9/3B 0.12.0 cents, S.No.9/4A 0.02.5 cents, S.No.9/4B 0.02.5 cents, S.No.9/4C 0.01.0 cents, S.No.9/4D 0.01.0 cents, S.No.9/4E 0.02.5 hectares of land. His father one Ramachandra Gounder had purchased 0.28 cents of land in Karasamangalam in S.No.9/3 and he died leaving behind his three sons including the petitioner as his legal heirs. The first respondent visited the petitioner's land on 29.05.1998 without any notice. The

petitioner therefore sent notice dated 12.06.1998 raising objections for acquisition of the land to the second respondent and also filed a suit in O.S.No.588/1998 on the file of the learned District Munsif, Vellore for the relief of injunction.

3.It is the further case of the petitioner that the respondents filed written statement in the original suit stating that the said lands were acquired for providing house site to Arunthathiyar and show cause notice under Rule 3(1) r/w 4(2) of the Act in Form I was issued to the land owner on 29.05.1998 and enquiry was fixed on 22.06.1998.

4.It is the further case of the petitioner that the petitioner was not served with any notice and understanding that award was passed on 29.01.1999 in Award No.17/98-99, has filed this petition.

5.The second respondent has filed a counter stating that as per the provisions vested in Section 4(2) of the Tamil Nadu Acquisition of Land for Adi-Dravida Schemes Act, 1978, the Collector of Vellore District authorized the Special Tahsildar (ADW), Gudiyattam to issue show cause notice Form under Rule 3 (1) r/w 4(2) of the Act 1978.

6.The counter further states that Form I notice under Rule 3 (1) of the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Rules, 1979 (Tamil Nadu Act 31/1978) was issued to the land owners on 29.05.1998 and enquiry on 22.06.1998 was conducted. The petitioner did not receive the notice and also not attended the enquiry conducted on 22.06.1998. However, sent a lawyer notice objecting the land acquisition proposal stating that he is mainly depending upon the income derived from the acquisition fields and requested to drop the acquisition.

7.The counter further states that the petition is having a rice mill in his village and owns 7.05 acres of wet and dry

lands a part from the acquisition land. Hence, his objection after due consideration was over-ruled by the Collector of Vellore District vide proceedings dated 11.09.1998 and notification under Section 4(1) of the Land Acquisition Act was published in Vellore District Gazette, Extraordinary No.33 dated 15.10.1998. Thereafter, the Award enquiry notice in Form III under Section 7(3) of the Act was issued to the land owners fixing the enquiry date on 29.01.1999.

8.The counter further states that the petitioner did not appear for Award enquiry and sent objection through his Advocate. His objection was considered by the Collector in detail and over ruled by the Collector of Vellore District and Award was passed on 29.01.1999. Challenging the said award the present writ petition is filed.

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

10.Admittedly, the land was acquired for providing house sites to Arunthathiyars. Accordingly, Form I notice under Rule 3(1) of the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Rules, 1979 (Tamil Nadu Act 31/1978) was issued to the land owners on 29.05.1998 and enquiry was conducted on 22.06.1998. Thereafter, notification under Section 4(1) of the Land Acquisition Act was published in Vellore District Gazette, Extraordinary No.33 dated 15.10.1998. Thereafter, the Award enquiry notice in Form III under Section 7(3) of the Act was issued to the land owners fixing the enquiry date on 29.01.1999 and Award was passed on 29.01.1999.

11.From the details stated supra, it is clear that the writ petition should not be entertained after the award. In the decision reported in 2005 (3) CTC 1 (Ramalingam and others vs. The State of Tamil Nadu, rep. by the Secretary to the Industries Department, Fort St.George, Chennai - 600 009 and others), it has been held as follows:

"3.In these appeals, the facts are that the Award under Section 11 of the Land Acquisition Act was given on 07.11.1996 whereas the writ petitions were filed on 28.11.1996, i.e., after the award was passed. It has been repeatedly held by the Supreme Court that no writ petition should be entertained after the award under the Land Acquisition Act has been passed - vide Tej Kaur and others v. State of Punjab and others, 2003 (4) SCC 485; Municipal Council, Ahmed Nagar v. Shah Hyder Beig, AIR 2000 SC 671; Executive Engineer, Jal Nigam Central

Stores Division, Uttar Pradesh v. Suresh Nand Jayal, 1997 (9) SCC 224; State of Tamil Nadu v. L.Krishnan and others, 1996 (1) SCC 250. Following the aforesaid decision, we are of the opinion that the writ petition itself were not maintainable and they should have been dismissed on this ground itself. Hence, the writ appeals are dismissed. Connected WAMP Nos.1595 to 1599 of 2005 are closed."

12.The petitioner has not challenged the notification under Section 4(1) of the Land Acquisition Act, however, has filed this writ petition challenging the consequential award which according to this Court is not permissible.

13.In view of the above, the writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1.The District Collector,
Sathuvachari, Vellore - 9,
Vellore District.

2.The Land Acquisition Officer,
Gudiyatham Taluk,
Now Katpadi Taluk,
Vellore District.

सत्यमेव जयते

+1cc to the Government Pleader, S.R.No.44054

WEB COPY

W.P.No.24064 of 2006

And

M.P.No.2 of 2006

(CO)

GSP(27/07/2018)