

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

W.P.No.33402 of 2016 and
W.M.P.Nos.28838 and 35494 of 2016

P.Simson

... Petitioner

Vs

1. The Collector,
Vellore District, Vellore

2. The Special Tahsildar,
Office of the Special Tahsildar,
Adi Dravidar Welfare,
Walajah, Vellore District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records of the 1st respondent in his proceedings in Na.Ka.K.11 2411/2016 dated Nil.08.2016 and quash the same.

For Petitioner : Mr.G.Jeremiah

For Respondents : Mr.A.Zakhir Hussair
Government Advocate

ORDER

The petitioner seeks to quash the proceedings of the 1st respondent under Section 4(3)(b) of the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act, 1978. In the affidavit filed in support of his petition, the petitioner avers that he owns a piece of property in S.No.262/3 of Kavanur Village, Arakkonam Taluk, Vellore District, and that the said property was sought to be acquired under the provisions of the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act, 1978. There was also an earlier attempt to interfere with the possession of the said property by Village Panchayat and the petitioner successfully resisted it by approaching this Court in W.P.No.31899 of 2012.

2. Be that as it may, the 1st respondent has decided to acquire the land for the benefit of Dalit Christians. The contentions taken in the affidavit and reiterated by the learned counsel for the petitioner is that the Dalit Christians, notwithstanding how they are understood by the society, are not members of Schedule Caste community and hence they fall outside the purview of the beneficiaries contemplated under Section 3 of the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act, 1978. According to the learned counsel, the impugned order specifically specifies Dalit Christians as the beneficiaries of the proposed acquisition, and inasmuch as they are not Harijans within the meaning of Section 3(f) of the said Act, the provisions of Tamil Nadu Act 31 of 1978 cannot be invoked for acquiring the petitioner's land and necessarily the impugned proceeding is bad in law.

3.1. In this case, State has filed counter affidavit in W.M.P.No.35494 of 2016 that it has filed for vacating the interim of stay. This affidavit seems to emphasis and over emphasis the sanctity of the public purposes involved. On the point raised by the petitioner, it is stated that the contention of the writ petitioner is not correct. Adi-Dravidar Christians are treated as Backward Class in respect of reservation of seats for education and employment opportunities, and they are not eligible to get free house site pattas from Backward classes Department as per G.O.Ms.No.28 Backward Classes and Most Backward Classes Welfare Department dated 19.07.1994. The 1st Bench of this High Court, in its judgment dated 15.04.2008 in W.P.No.9116/2008 have observed that the issue relating to status of the Hindu Adi-Dravidar who have converted to Christianity would depend upon how the individuals have been accepted by the community. Merely because they have converted, they would not be disentitled to the benefits which are given to Adi-Dravidars. Section 3(g) defines about the schemes for provision of house sites, burial grounds, pathway leading to such dwelling house, burial or burial grounds or for providing any other amenity for the benefits of Harijans. As the beneficiaries are Adi-Dravidars and Adi-Dravida Christians who are living in one and the same nabitation, it has been proposal to acquire the land under the said Act.

3.2. It is further averred that the petitioner and the Kavanoor Panchayat President are the writ petitioners in respect of W.P.No.31899/2012 and W.P.No.40229/2015 respectively, which are for the acquisition of the land in Natham S.No.477/15 of Kavanoor Village. The Special Tahsildar (Adi-Dravidar Welfare), Walajah and the writ petitioner P.Simson are the 3rd and 5th respondents in W.P.No.40229/2015 filed D.Jeevanesan, Panchayat President of Kavanoor Village. On the basis of above cases,

Section 4(2) of the Act and Rule 3 of the rules, a detailed notice was issued by the Special Tahsildar (Adi-Dravidar Welfare) Walajah on 21.03.2016 to the writ petitioner P.Simson, marking copies to the Panchayat President and the Village Administrative Officer of Kavanoor Village under proper acknowledgements. In response to the notice, the writ petitioner P.Simson sent his objection letter dated 05.04.2016 against the acquisition of his land. Simson and the Village Administrative Officer, of Kavanoor Village have appeared for personal enquiry on 07.04.2016. Simson did not give a statement. But he endorsed in the 4th page of typed objection letter dated 05.04.2016 in his own hand writing stating that he has no written statement other than the one narrated in the said letter, put his signature and presented to the Special Tahsildar (Adi-Dravidar Welfare) Walajah. The link road was existing for the past many decades. There are four public drinking water pipe lines passing under the said link road. The drinking water is being used by more than 1,500 Adi-Dravidars and Adi-Dravida Christians living in the area. The petitioner Simon obstructed the said link road with hollow blocks. There are no possibilities to make alternative arrangements. Hence it has become necessary to acquire the land. There is also great urgency to acquire the land as it is a link road to the burial ground.

4. Mr.A.Zakhir Hussain, learned Government Advocate appearing for the Government strenuously argued that even though the impugned proceedings mentioned the beneficiaries as Dalit Christian, they would fall within the definition of Section 3(f) of the Act.

5. The submissions of the the learned Government Advocate that Dalit Christians will fall within the definition of Harijans under Section 3(f) of the Tamil Nadu Act, 31 of 1978 cannot be appreciated for the simple reason, this Court cannot read into something that is not expressly stated therein. Section 3(f) of the Tamil Nadu Act, 31 of 1978, reads:

(f) " Harijans " means members of the Scheduled Castes and include Scheduled Tribes ;

Explanation.--(1) " Scheduled Castes " means that castes, races or tribes or parts of, groups within, castes, races or tribes specified in the Constitution (Scheduled Castes) Order, 1950, made by the President under article 341 of the Constitution as amended by the Scheduled Castes and Scheduled Tribes Order (Amendment) Act, 1976 (Central Act 108 of 1976).

(2) " Scheduled Tribes " means the tribes or tribal communities, or parts of, or groups within,, tribes

or tribal communities, specified in the Constitution (Scheduled Tribes) Order, 1950 made by the President under article 342 of the Constitution as amended by the Scheduled Castes and Scheduled Tribes Order (Amendment) Act, 1976 (Central Act 108 of 1976).

6. It is apparent on a plain reading of the said definition, Christian Dalits are not included in the said definition, and according to the learned counsel for the petitioner, they have been classified as Backward Class. In view of the above, this Court is inclined to quash the above said proceedings. Accordingly, the proceedings of the 1st respondent in Na.Ka.K.11 24211/2016 dated Ni.08.2016 is hereby quashed and the writ petition is allowed accordingly. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1. The Collector,
Vellore District.

2. The Special Tahsildar,
Office of the Special Tahsildar,
Adi Dravidar Welfare,
Walajah, Vellore District.

+lcc to Mr.G.Jeremiah, Advocate Sr.No.7523
+lcc to Government Pleader SR.NO.7995

SS1(CO)
sm:22.6.2018

W.P.No.33402 of 2016

WEB COPY