

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.01.2018

Coram: The Honourable Mr. Justice N. SESHASAYEE

W.P.No.12986 of 2004

and

W.P.M.P.Nos.15116 of 2004, 520 of 2011 & 289
of 2012

1. K. Pattuammal (Deceased)
2. S. Velayutham (Deceased)
3. S. Ramanathan

(P2 & P3 are substituted as Legal Representatives of the deceased first petitioner, K.Pattuammal as per order dated 07.01.2010 by RBIJ in W.P.M.P.No.8 of 2011 in W.P.No.12986 of 2004)

4. V. Selvarani
5. Tmt. J. Muthulakshmi
6. Tmt. V. Poonkodi
7. Selvi V. Valliammal
8. V. Velmurugan

(Petitioners 4 to 8 are substituted as Legal Representatives of the deceased second petitioner, S.Velayutham as per order dated 14.12.2017 by NSSJ in W.P.M.P.No.247 of 2012 in W.P.No.12986 of 2004)

...Petitioners

Versus

1. The District Collector,
Dharmapuri.
2. Revenue Divisional Officer,
Salem, Salem District.
3. Special Tahsildhar (ADW),
Attur, Salem District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for records pertaining to the notification of the first respondent in R.Dis.No.23190/80/D.13. Dated 08.12.1980, as published in Salem District Gazette dated 18.12.1980 and the consequential

order of the third respondent in Na.Ka.No.861/92/A, dated 18.03.2004, and quash the same.

For Petitioners: Mr.P.Ganesan
For Respondents: Mr. A. Zakir Hussain,
Government Advocate

ORDER

1.1. The brief facts on the foundation of which the cause for the current action are sought to be sustained are: The petitioners owned a piece of agricultural land ad-measuring 1.41 acres in Survey No.205 in East Rajapalayam Village and this was purchased by the first petitioner, now deceased, under two sale deeds dated 12.03.1980 and 19.03.1980. This property was acquired under the provisions of Tamil Nadu Harijan Welfare Land Acquisition Act, 1978 (Tamil Nadu Act 31 of 1978), and the first petitioner was sought to be dispossessed. Hence, the first petitioner rushed to this Court with W.P.No.6134 of 1992 seeking a writ of mandamus to forbear the respondents for disturbing his possession and he continued in possession till 2000. In the meantime, the validity of Tamil Nadu Act 31/1978 has also come under challenge. W.P.No.6134/1992 was dismissed by this Court on 02.03.2000 for want of material particulars regarding the notification relating to the acquisition. However, it has granted liberty to the deceased first petitioner to question the action of the respondents as and when a cause of action arises.

1.2. Thereafter, sometime after 22.10.2003, the third respondent instructed the deceased first petitioner to hand over the property. In these circumstances, the deceased first petitioner has come before this Court with the present petition.

1.3. During the pendency of the petition, the first petitioner passed away. Her husband has pre-deceased her and she had no issues of her own. Therefore, her husband's collaterals were impleaded as petitioners 2 and 3 to represent the deceased first petitioner. The second petitioner so impleaded, who was the first petitioner's husband's nephew, too died during the pendency of the petition consequent to which his heirs constitute the remaining petitioners.

2. The first and third respondents have filed separate counter affidavits and the necessary facts that they disclose for defending the present action may be succinctly stated: That the acquisition proceedings of the present land was initiated as per notification under Section 4(1) of the Tamil Nadu Act 31 of 1978 dated 08.12.1980 and award in Award No.6 of 1981 was passed. Further, W.P.No.6134/1992 was only dismissed by this Court, and leave for filing a fresh petition on a fresh cause of action was granted as a contingent relief. But, based on that Order, no fresh cause of action has arisen, and the petitioner was only attempting to stretch a life of possible cause of action that might have accrued to her even in 1980 or 1981. Lands were

required for allotment to 42 identified beneficiaries and the present petition was made after a lapse of 24 years, cannot be sustained on grounds of delay and latches.

3. Heard the learned counsel for the petitioners and Mr.A.Zakir Hussain, the learned Government Advocate for the respondents. Their submission was essentially along with the pleadings available in the case.

4. After perusing the pleadings and typed set of papers an aspect that emerges is that the award in this case has been passed in 1981 and the petitioner has come to this Court with the present action in 2004, after a lapse of 23 years. That itself is adequate enough grounds for rejecting this petition. However, the petitioner introduced an order in W.P.No.6134 of 1992 as supplying a ground for filing this Writ Petition. This petition was disposed of on 02.03.2000 and the copy of the Order made available discloses that the petition was dismissed essentially on the ground for want of material particulars regarding acquisition, and whatever that was observed in the end as granting an opportunity to the petitioners to move the Court on arising of any fresh cause of

action is essentially general in terms. In the present case, the petitioners could not demonstrate any fresh cause of action that might have arisen after 1981 or 2002.

5. The conduct of the petitioners is hit by delay and latches. Besides there are no justifiable grounds to interfere with the action of the authorities. Therefore, this Court is left with little option but to dismiss this Writ Petition.

6. Accordingly, this Writ Petition is dismissed. In the circumstances of this case, no cost is awarded. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,
Dharmapuri.
2. Revenue Divisional Officer,
Salem, Salem District.
3. Special Tahsildhar (ADW),
Attur, Salem District.

+1cc to Mr.C.S.Associates, Advocate, S.R.No.5708

+1cc to the Government Pleader, S.R.No.5824

W.P.No.12986 of 2004

rj (CO)
GSP (12/04/2018)



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