

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

W.P.No.13823 of 2002

and

W.P.M.P.No.18676 of 2002

and

W.P.No.18035 of 2002

W.P.No.13823 of 2002

1.M.S.Palanisami (Deceased),
2.S.Sadhasivam
3. P.Selvi
4. Arun Kumar
5. Sivakumar
6. Mariyammal
(P3 to P6 impleaded as Legal
Representatives in the place of deceased
1st petitioner as per order dated 02.02.2012
by RSJ in W.P.M.P. No.25 of 2012 in
W.P.No.13823 of 2002.) ... Petitioners

Vs

1. The State of Tamil Nadu
rep by its Commissioner and Secretary,
Social Welfare Department,
Fort. St. George,
Chennai - 600 009.
सत्यमेव जयते
2. The Special Tahsildar,
(Adi-Dravidar Welfare),
Land Acquisition,
Kangayam, Erode District. ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records on the file of the 2nd respondent herein which culminated in notice No.N.A.16/84 A dated 15.03.2002 in the office of the Special Tahsildar, (Adi-Dravidar Welfare) Land Acquisition, Kangayam, Erode District and to quash the same.

W.P.No.18035 of 2002

Mr.M.M.Natarajan

... Petitioner

Vs

1. The State of Tamil Nadu

rep by its Secretary to Government,
Social Welfare Department,
Chennai - 600 009.

2. The Special Tahsildar,
(Adi-Dravidar Welfare),
Land Acquisition,
Kangayam, Erode District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the 2nd respondent passed in and by his proceedings in Award No.16/1984 dated 10.12.1993 and the order dated 15.03.2002 quash the same insofar as the petitioner's land situate in Survey No.778/1B3 measuring an extent of 3217.5 sq.ft., in Velampalayam Village, Kangayam Circle, Erode District.

For Petitioners
in W.P.No.13823 of 2002 : Mr.C.Johnson

For Petitioner
in W.P.No.18035 of 2002 : Mr.C.Elamurugan
for Mrs.P.T.Ramadevi

For Respondents
in both Writ Petitions : Mr.Akhil Akbar Ali,
Government Advocate

COMMON ORDER

These two petitions are set to different set of facts but have been filed with questioning the same acquisition proceedings.

2. The case of the petitioner in W.P.No.13823 of 2002 is that the petitioners have jointly purchased a total extent of 30,104 sq.ft., in Old S.No.778/1B4, now correlated to new S.No.234/1 of Velampalayam Village, Kangeyam Taluk, Erode District. This property was said to have been acquired under the provisions of the Land Acquisition Act for benefiting the Harijans of the locality. Whiles, on 15.03.2002, the petitioners were served with a notice signed by the Special Tahsildar intimating the petitioners that since the sale in favour of the petitioners had taken place after the commencement of acquisition proceedings, the property had vested in the Government that the sale is liable to be cancelled and that the petitioners are also be liable for criminal prosecution. This is now in challenge.

3. The case of the petitioner in W.P.No.18035 of 2002 is that the petitioner had purchased a plot of land in a layout promoted by his vendor on 09.06.1989. This property was already subjected to land acquisition proceedings and a declaration under Section 6 of the Land Acquisition Act, 1894 had already been published on 05.10.1987. The factum of this land involved in the land acquisition proceedings was suppressed by the petitioner. However, his vendor has challenged the very declaration under Section 6 of the said Act, in W.P.No.3168 of 1988 and this came to be dismissed on 30.01.1995. Independent of this fact, the award was passed only on 10.12.1993, which is well beyond two years time provided for passing the award under Section 11-A of the Land Acquisition Act, 1894. Inasmuch as the award was not passed within two years from the date of declaration under Section 6, the entire land acquisition proceeding has lapsed. Hence, the petitioner seek quashing the aforesaid land acquisition proceedings and has come forward with the petition.

4. The counter was filed in W.P.No.13823 of 2002 and there is no counter filed in W.P.No.18035 of 2002.

5. Heard Mr.C.Johnson, learned counsel appeared for the petitioners in W.P.No.13823 of 2002 and Mr.C.Elamurugan, learned counsel appearing on behalf of Mrs.P.T.Ramadevi, for petitioner in W.P.No.18035 of 2002 and Mr.Akhil Akbar Ali, learned Government Advocate for the respondents in both the writ petitions.

6.1. While the petitioner in W.P.No.18035 of 2002 has come forward with a straight case founded on non-compliance of Sec.11-A of the Act, the petitioners in W.P.No.13823 of 2002 have come forward with a slightly different line of pleadings which they shelved and focused on fitting it under Sec.11-A lapse.

6.2. The learned counsel for the petitioners submitted that it was at least one year after the petitioners had purchased the property that the Government had notified it under Sec.4(1) of the Land Acquisition Act. However, what is even more significant is that the award in this case has been passed well beyond two years time stipulated in Sec.11-A of the Land Acquisition Act. This fact though not specifically pleaded, is something which the respondents cannot deny or dispute, and it is necessary that the acquisition proceedings itself is declared as lapsed.

6.3. The learned Government Advocate submits that on 15.03.2002, the Special Tahsildar has issued a notice that the sale had taken place in favour of the petitioners during the pendency of the acquisition proceedings and hence, the said sale was liable to be set aside. He added that the declaration under Section 6 was dated 05.10.1987 and the same was gazetted on 09.03.1988, and that in W.P.No.3168 of 1988 this Court passed an Order of interim stay against dispossession and hence the passing of the award got delayed and came to be passed only on 10.12.1993.

7. For ascertaining if the land acquisition proceedings has lapsed under Section 11-A of the Land Acquisition Act, 1894, all that the Court needs to look into is the calendar and not any legal literature. In this case, admittedly Section 6 declaration was published on 09.03.1988 and an award has been passed on 10.12.1993. It is well beyond two years time provided under Section 11-A(2) of the Land Acquisition Act. In this context, it has to be borne in mind that even according to the respondents, this Court vide interim order passed in W.P.No.3168 of 1988 has only restrained the respondents from dispossessing the petitioner and there is no order of stay of any kind preventing the Land Acquisition Authority from passing an award, and the interim order passed will not have the effect of stopping the clock from ticking in calculating the time for passing the award.

8. For the foregoing reasons, this Court modifies the relief in W.P.No.13823 of 2002 and allows W.P.No.18035 of 2002 and declare that the entire land acquisition proceedings involved in G.O.Ms.No.1843/WS/5.10.1987 as lapsed. Inasmuch as the entire

land acquisition proceedings have lapsed, the notices impugned in W.P.No.13823 of 2002 necessarily do not have any legitimacy for its continued survival. Hence, notice issued in N.A.16/84 A dated 15.03.2002 and the proceedings in Award No.16 of 1984 dated 10.12.1993 and the order dated 15.03.2002 on the file of the 2nd respondent are hereby quashed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ssn
To

1. The Commissioner and Secretary,
Social Welfare Department,
Fort. St. George,
Chennai - 600 009.
2. The Special Tahsildar,
(Adi-Dravidar Welfare),
Land Acquisition,
Kangeyam, Erode District.

+1cc to Mr.C.Johnson, Advocate Sr.20117
+1cc to the Government Pleader Sr.21862

W.P.No.13823 of 2002
and
W.P.No.18035 of 2002

vs[co]
srg 29/05/2018

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