

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

W.P.No.34908 of 2003

- 1.Arumugam Mandiri
- 2.Kanna Mandiri (Deceased)
3. Mrs.Santhi
4. Mr.Saravanan
5. Mrs.Sumathi
6. K.Amul

... Petitioners

(P3 to P6 are substituted as
LRs of deceased P2:Kanna Mandiri
as per order dated 23.08.2017 by
SVNJ in WMP No.21763/17 in
W.P.No.34908 of 2003).

Vs

1. The State of Tamil Nadu
Represented by its Commissioner & Secretary
to Government, Adi Dravidar & Tribal
Welfare Department, Secretariat,
Chennai-9.

2. The Special Tahsildar,
Polur, Arani.

3. The District Collector,
Tiruvannamalai District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records pertaining to Section 4(1) Notification dated 17.06.2003 issued by the 3rd respondent and published in Tiruvannamalai District Gazette, dated 21.06.2003 under the provisions of Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978, with regard to lands in Survey Nos.254/1A, 254/1B and 254/1C in Athimalaipattu Village, Arani Taluk, Tiruvannamalai District and quash the same.

For Petitioner	:	Mr.K.V.Sundararajan
For Respondents	:	Mr.A.Zakir Hussain Government Advocate

O R D E R

The petitioners' land in Nos.254/1A, 254/1B and 254/1C in Athimalaipattu Village, Arani Taluk, Tiruvannamalai District was sought to be acquired under the provisions of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978. According to the learned counsel for the petitioners, the notice issued on 12.04.2002, under Rule 3(1) indicated that the properties of the petitioners are proposed to be acquired for the purpose of forming a burial ground for the Harijans. However, when 4(1) notification was issued, it indicated that the acquisition is intended only for formation of a pathway for burial ground.

2. Counter in this case was filed and the petitioners also filed typed set of papers. Mr.A.Zakir Hussain, learned Government Advocate appearing for the respondents submitted that the right through the intended purpose behind the proposed acquisition was for forming a burial ground for Harijans and not just a pathway for burial grounds and inadvertent error appeared to have crept in while specifying the purpose behind acquisition in the notification issued under Sec.4(1) of the Act.

3. Establishing a burial ground per se and providing the pathway for an existing burial ground are two different things. The approach of the owner of the land which was proposed to be acquired would be vastly different and vary with the object of acquisition. His objection to the proposed acquisition in an enquiry held pursuant to the notice under Sec.4(2) would also vary accordingly. To issue notice indicating one purpose and make a final notification for another purpose may not meet the requirements of law. Therefore, the notification of the 3rd respondent issued under Sec 4(1) of the Tamilnadu Acquisition of lands for Harijan Welfare Schemes Act, 1978, dated 17.06.2003, cannot stand, and is quashed accordingly. However, nothing precludes the respondents from initiating any fresh proceedings for acquiring petitioner lands afresh in the manner known to law.

4. Accordingly, this Writ Petition is allowed. No costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

ssn

To

1. The Commissioner & Secretary
to Government,
Adi Dravidar & Tribal
Welfare Department, Secretariat,
Chennai-9.

2. The Special Tahsildar,
Polur, Arani.

3. The District Collector,
Tiruvannamalai District.

+ 1 cc to Mr.K.V.Sundararajan Advocate, SR.10166

+ 1 cc to The Govt.Pleader, SR.10619

W.P.No.34908 of 2003

gp(co)
nr 26/03/2018



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