

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.02.2018

Coram: The Honourable Mr. Justice N. SESHASAYEE

W.P.No.29256 of 2004
and
W.M.P.No.35525 of 2004

Rama Reddy

...Petitioner

Versus

1. The District Collector,
Vellore District,
Vellore.

2. The Special Tahsildar,
Adi Dravidar Welfare Department,
Gudiyatham,
Vellore.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a issuance of a Writ of Certiorari calling for the entire records of the respondent in respect of Land Acquisition Proceedings in Re.A.No.1537/97 dated 16.03.1998 initiated by the second respondent and quash the same in view of the above mentioned grounds comprised in Survey No.245 to an extent of 0.15.0 Hectares of Vilithondripalayam Village, Gudiyatham Taluk, Vellore District.

For Petitioner : Ms.S.Uma Maheswari

For Respondents : Mr.Akhil Akbar Ali,
Government Advocate

ORDER

The petitioner owns a block of agricultural land measuring an extent of 0.15.01 Hectares in Survey No.245 of Vilithondripalayam Village, Gudiyatham Taluk. A portion of his property was sought to be acquired for providing pathway for accessing the burial ground used by the members of Irular community of the aforesaid village.

2. While so, without issuing any show cause notice regarding Land Acquisition, the petitioner strangely received a notice dated 27.03.1998, to appear before the Special Tahsildar to show the nature of interest the petitioner owns over his

lands. Therefore, the petitioner has rushed to this Court alleging that no notice was issued under Section 4(2) of the Tamil Nadu Acquisition of Lands for Harijan Welfare Schemes Act, 1978 (hereinafter referred to as "Act") and no procedure as contemplated under Section 4(3) of the Act has taken place and even Section 4(1) is issued behind his back. Therefore, notice issued dated 16.03.1998 requiring the participation of the petitioner for enquiry on 27.03.1998, presumably for quantifying the compensation payable and passing the award too is bad in law. On the aforesaid allegation, the petitioner seeks that a Writ of Certiorari be issued for quashing the said notice of the Special Tahsildar dated 16.03.1998.

3. In the counter affidavit filed by the second respondent, it is alleged that petitioner was issued a Notice under Section 4(2) dated 31.10.1997 requiring the petitioner to raise his objection if any, during the enquiry that was scheduled to take place on 26.11.1997. On the appointed date, the petitioner appeared in person and filed his objection. On concluding the enquiry, the entire papers were handed over to the District Collector and the District Collector had applied his mind within the meaning of Section 4(3) of the Act and proceeded to issue the Notification under Section 4(1) of the Act. The allegation of the petitioner that he was not given adequate time to appear for the enquiry on 27.03.1998 is not tenable.

4. Heard Ms.S.Uma Maheswari, the learned counsel appearing for the petitioner and Mr.Akhil Akbar Ali, the learned Government Advocate appearing for the respondents.

5. The learned Government Advocate appearing for the respondents made available the files pertaining to acquisition for the perusal of this Court. Mr.K.B.Mahalingam, the Special Tahsildar (Adi Dravidar Welfare), Gudiyatham is also present to assist the Court and his assistance is recorded and appreciated.

6. It is seen from the file that the notice under Section 4 (2) dated 31.10.1997 was personally served on the petitioner requiring him to appear for an enquiry on 26.11.1997 and that the petitioner too had appeared before the Special Tahsildar on 26.11.1997 with his written objection. These two documents would indicate that the petitioner has made a false statement in the petition, especially in the grounds for sustaining his prayer, that the procedure contemplated under Section 4(2) of the Act was followed. This Court deprecates such over ambitious attitude of the petitioner in abusing the judicial process. This is followed by a report of the Special Tahsildar dated 12.12.1997 and the proceeding of the District Collector dated 20.02.1998, which indicates that the Collector was personally satisfied about the need for acquisition, belying the statement of the petitioner. Since the inasmuch as the procedure

contemplated under Section 4(2) and 4(3) are duly complied with, the petitioner cannot take exception to the legality of the notification issued under Section 4(1) of the Act.

8. After the notification issued under Section 4(1) of the Act dated 20.02.1998, the impugned notice dated 16.03.1998 was issued to the petitioner for determining the compensation amount payable. In the notice, 11 days time was given to the petitioner to appear before the Authority concerned for an enquiry. The petitioner however, chose not to appear before the Authority concerned but instead he has approached this Court almost after about six years, on 05.10.2004 to file this petition. In the meantime, the award too has been passed on 23.10.1998 in Award No.3/98 of 1999.

9. The learned counsel for the petitioner argued that petitioner was not granted any adequate and effective opportunity to participate in the award enquiry. She contended that at least fifteen days time should have been granted to the petitioner to present the case.

10. In this context, the learned Government Advocate brought to the notice of this Court that Rule 5(1) of the Tamil Nadu Acquisition of lands for Harijan Welfare Schemes Act and argued that the statutory Rules only requires granting of 15 days clear notice for an enquiry from the date of issuance of notification under Sec.4(1) and not from the date of notice. Even other words, 10 days notice for a person living in the same area is adequate. This apart, argued the learned counsel, that the petitioner lied about all that had happened from the commencements of the acquisition proceedings till the issuance of impugned notice, and even thereafter they kept quite for the next 1½ years and presented the petition as if he knows nothing about it.

11. On appreciating the materials before this Court and on hearing the rival submissions, this Court considers that the petitioner's conduct has been a spoiler of his own goods. As has been repeated a couple of times, the petitioner wants this Court to believe that he was kept in dark which is not true. The legal proceedings cannot be driven entirely on sympathy and therefore, a conduct which go against the interest of justice cannot be countenanced. On the point of inadequacy of the time for participating in the enquiry scheduled to take place for fixing the compensation under Rule 5(1) of the Tamil Nadu Harijan Welfare Schemes Act is relevant and it is reads as follows:

5. Procedure for determining the amount -

(i) Immediately after the publication of the notice under sub-section (1) of Section 4 of the Act in the

District Gazette by the District Collector, the prescribed authority shall serve a notice in Form III to the owner and to all persons interested to appear before him on a day to be specified which shall not be earlier than fifteen days after the publication of notice under sub-section (1) of Section 4 of the Act for inquiry. The notice shall also be displayed at prominent places or near the land under acquisition."

Therefore if the petitioner does not want to participate in an enquiry, it is his choice and he cannot blame the Authorities for the same. It is now significant to state that the petitioner has been served with a Notice dated 06.02.2002 informing him about the passing of the award.

12. This petition is a testimony to petitioner's attempt to play foul of the judicial process, which he ought to know is established to decide just cause. Every ounce of petitioners' attitude, or of those who are responsible for the petitioner possessing one demonstrates that he has considered that legal system is a plaything in his hand.

13. To sum up, this Court does not find any merit and therefore, this Writ Petition is dismissed. However, considering the age of the petitioner, this Court does not want to slap any costs on him. Consequently, connected Miscellaneous Petition is closed.

s/d-

Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

mrr

To

1. The District Collector,
Vellore District,
Vellore.

2. The Special Tahsildar,
Adi Dravidar Welfare Department,
Gudiyatham,
Vellore.

+1 CC to Mr.D. Rajagopal, Advocate sr 15863.

+1 CC to The Govt. Pleader sr 17143.

W.P.No.29256 of 2004

SP(01/06/2018)