

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Wednesday, the Ninth day of January Two Thousand Nineteen

PRESENT

THE HON`BLE MR JUSTICE T. S. SIVAGNANAM

AND

THE HON`BLE MR JUSTICE N. SATHISH KUMAR

WMP Nos.653,655 AND 657 of 2019

IN WP.NO.5220 OF 1987

RUKMANI (DECEASED)

1 SEKAR SELVAN, [PETITIONERS IN ALL THE PETITIONS]

2 DHANABAKYAM,
D/O.PALANISAMY GOUNDER, NO.96, KALIAPPAR
GOWNDER THOTTAM, GANAPATHY, COIMBATORE
(PETNRS 1 AND 2 ARE LEGAL HEIRS OF (DECEASED) RUKMANI

LAKSHMI ((DECEASED)

3 SIVAGAMI,
GANAPATHY VILLAGE, GANAPATHYPALAYAM,
COIMBATORE DISTRICT.

NACHIMUTHU GOUNDER (DECEASED)

4 JAYALAKSHMI, D/O.NACHIMUTHU
GOUNDER, 72, KERAY THOTTAM, KATTAPOMAN ST.,
GANAPATHY, COIMBATORE. (4TH PETITIONER IS
THE LEGAL HEIR OF DECEASED 2ND AND 4TH WRIT PETITIONERS)

Vs

1 THE STATE OF TAMIL NADU, [RESPONDENTS IN ALL THE PETITIONS]
REP. BY SECRETARY TO GOVERNMENT, SPECIAL
WELFARE DEPARTMENT, FORT ST. GEORGE,
MADRAS-9.

2 THE COLLECTOR OF COIMBATORE
COIMBATORE

3 THE SPECIAL TAHSILDAR (LA),
ADI DRAVIDAR WELFARE, COIMBATORE.

4 M.PALANICHAMY
GANAPATHY VILLAGE, COIMBATORE

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(I) i To amend the prayer in WP as Writ of Certiorari, calling for the records relating to the Notification issued by the 1st respondent under Section 4(1) of the Land Acquisition Act, 1894 (Social Welfare Department) in GO Ms. No.1119 dated 15.5.1985, the consequential Declaration made by the 1st respondent under Section 6 of the Act in GO Ms. No.1536 (Social Welfare Department) dated 18.6.1986 and the award passed by the 3rd respondent in Award No.1/88-89 in Ref. No.1A 5/78 dated 22.9.88, quash the same instead of Writ of Certiorari, calling for the records comprised in the proceedings of the 1st respondent herein in GO Ms.No.1119, Social Welfare, dated 18.6.1986 and to quash the proceedings of the 1st respondents herein in G.O.MS. NO.1119 social welfare, dated 18.06.1986 and to quash the proceedings of the 1st respondent herein dated 15.05.1985 and 18.06.1986 respectively and pass such further or other orders as this Honourable Court may deem fit and proper in the circumstances of the case in WMP.653 OF 2019.

(ii) To dispense with the production of the original award passed by the 3rd respondent in Award No.1/88-89 in Ref. No.1A 5/78 dated 22.9.88 in WMP.NO.655 OF 2019 and;

(iii) To permit the petitioner to file additional affidavit in WP No.5220 of 1987 in WMP.NO.657 OF 2019 respectively.

Order : These petitions coming on for orders upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of M/S.R.N.AMARNATH, Advocate for the petitioner and of MR.ANANDHAMOORTHY, Additional Government Pleader appearing for the respondents 1 to 3 and MR.K.PREMKUMAR, counsel for the 4th respondent. on behalf of the Respondents the court made the following order:-

COMMON ORDER

(Order of the Court was made by T.S.SIVAGNANAM,J)

Heard Mr.R.N.Amarnath, learned counsel for the petitioners, Mr.Anandhamoorthy, learned Additional Government Pleader appearing for the respondents 1 to 3 and Mr.K.Premkumar, learned counsel for the 4th respondent.

2.The petitioners have filed three miscellaneous petitions, namely, W.M.P.No.653 of 2019 to amend the prayer in the writ petition, W.M.P.No.655 of 2017 to dispense with the production of the original award dated 22.09.1988 and W.M.P.No.657 of 2019 to permit the petitioners to file an additional affidavit.

3.The award in the land acquisition proceedings were passed during the pendency of the writ petition and during the period when the petitioner had the benefit of an interim order stating that the petitioner's should not be dispossessed. The prayer in the writ petition is to quash the notification issued under Sections 4(1) and 6 of the Land Acquisition Act, 1894.

4.Considering the fact that the award was passed pending the writ petition, we are inclined to permit the petitioners to amend the prayer sought for in the writ petition. The petitioner has filed a copy of the award and therefore, the production of original of the award stands dispensed with for the present. Accordingly, W.M.P.Nos.653 and 655 of 2019 are allowed.

5.In so far as the relief sought for in W.M.P.No.657 of 2019, the petitioners have raised certain additional grounds apart from the grounds which were canvassed in the writ petition filed during the year 1987. The Hon'ble Supreme Court while remanding the matter to the Division Bench for fresh consideration by judgment dated 12.03.2018 directed the Division Bench to decide the writ petition afresh on merits and in accordance with law. Therefore, we are inclined to permit the petitioners to raise additional grounds at the same time granting liberty to the official respondents, namely, respondents 1 to 3 to file counter affidavit countering the additional grounds raised. Subject to the above liberty, W.M.P.No.657 of 2019 is also allowed.

6.The Registry is directed to make necessary amendment in the cause title. List the main writ petition on 29.01.2019.

-sd/-

09/01/2019

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE SECRETARY
TO GOVERNMENT, STATE OF TAMIL NADU,
SPECIAL WELFARE DEPARTMENT, FORT ST. GEORGE, MADRAS-9.

2 THE COLLECTOR OF COIMBATORE
COIMBATORE

3 THE SPECIAL TAHSILDAR (LA),
ADI DRAVIDAR WELFARE, COIMBATORE.

+2 C.C. to M/S.R.N.AMARNATH Advocate sr.no.446,447

The Government Advocate, High Court, Madras - 104.

Order

in

WMP Nos.653,655 AND 657 of 2019
IN WP.NO.5220 OF 1987

Date :09/01/2019

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