

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.01.2019

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.46936 of 2006

and

M.P.No.1 of 2006

R.Narasimma

..Petitioner

vs

1.The District Collector,
Krishnagiri District.

2.The Tahsildar
Krishnagiri District.

3.The State of Tamil Nadu
Rep.by the Secretary and Commissioner
Social Welfare Department
Fort St.George, Madras - 9.

4.The Secretary,
Hindu Religious Endowment Department
of the State Government, St.George Fort,
Chennai.

(R4-Suo motu impleaded as per order dated
30.01.2013 in W.P.No.46936/2006)

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to forbear the respondents from interfering possession of the temple in respect of Sy.No.16/1A, 16/1B, 16/1C and 16/1D of Motham Agraharam Village, Hosur Taluk, Krishnagiri District belonging to Uthamakaragam deity of an extent of 0.74.5, 0.13.0, 0.04.0 and 1.20.0 respectively.

For Petitioner : Mr.V.Raghavachari

For Respondents : Mr.M.Elumalai, Government Advocate
for R1 to R3

Mr.M.Maharaja, Special Government Pleader
(HR&CE) for R4

O R D E R

The relief sought for in this writ petition is to forbear the respondents from interfering with the possession of the temple in respect of Sy.No.16/1A, 16/1B, 16/1C and 16/1D of Motham Agraharam Village, Hosur Taluk, Krishnagiri District belonging to Uthamakaragam deity of an extent of 0.74.5, 0.13.0, 0.04.0 and 1.20.0 respectively.

2.The learned counsel for the writ petitioner states that the respondents had sought to acquire the lands for providing the house sites to harijans.

3.The grievances of the writ petitioner is that no notice was received by him from the competent authority. The Temple being the owner of the property had not been issued with any notice. The petitioner came to know the Acquisition proceedings only recently during the year 2006. Immediately, the petitioner verified the same from the office of the 2nd respondent and found that certain portions of the land belonging to the temple had been acquired. The Temple did not have any notice of the acquisition proceedings anytime before. Being the owner of the property, the temple through its trustee is entitled to raise their objections in respect of the Acquisition proceedings.

4.It is further stated that the Temple is a Village Temple and is not under the Administrative control of the Hindu Religious and Charitable Endowment Board. On verification from the office of the 2nd respondent, the petitioner came to understand that the award amount had been deposited under Section 30 of the Land Acquisition Act and he had issued notice to the Assistant Commissioner, HR &CE Board. Further, he came to understand that the house patta had been issued to the beneficiaries. The tenants in the premises, which were acquired had contacted the writ petitioner and subsequently, a suit was filed in O.S.No.314/2005 and secured an order of injunction on 03.11.2005 from the District Munsif Court at Hosur. Under those circumstances, the petitioner was constrained to move the present writ petition.

5.The learned Special Government Pleader appearing on behalf of the "HR & CE" Department made a submission that the land in question admittedly belonged to the Temple. The land was sought to be acquired for the benefit of the poor landless Adi Dravida people in that locality. The Acquisition proceedings were initiated during the year 1984, and possession of the land was taken over by the authorities on 19.09.1984. Subsequently, after taking possession, the land was sub divided on 30.01.1985 and the same was allotted in favour of the 35 landless poor Adi Dravida people. The allotments were made on 31.01.1985 and the

respective beneficiaries are allowed to occupy their respective portion of the land allotted in their favour and constructed buildings and now residing.

6.The learned Special Government Pleader further states that the entire proceedings were concluded during the year 1985. In respect of the said Acquisition proceedings, some other persons filed W.P.No.1748 of 1985 and the said writ petition was dismissed on 06.12.1993. This being the factum, the present writ petition deserves no consideration.

7.The learned Government Advocate appearing on behalf of the respondents 1 to 3 filed a status report. The Status Report enumerates that an extent of 0.90.0 hectare of Land in S.No.16/1B of Motham Agraharam Village in Hosur Taluk was acquired by the Special Tahsildar(ADW), Krishnagiri for the provision of free house sites to the poor houseless Adi Dravidars community people of Motham Agraharam Village. The Award was passed in Award No.4/1984-85 dated 15.09.1984. Possession of the acquired land was taken over on 19.09.1984 by the respondent. The acquired land was sub divided plotted and house site pattas were issued to 35 houseless Adi Dravidar community people of the village on 31.01.1985. The land in S.No.16/1 Government dry measuring 5.22 acres was registered in the names of 1.Sri Uthama karagam koil and 2.Gullappa of Motham Agraharam Village in Patta No.133 of Motham Agraharam Village. The acquired Land belonged to Gullappa. He expired 10 years back leaving his only son Ramappa. The said Ramappa also died 3 years back. His widow Muniyammal and her minor children are the legal heirs. She has leased out the land to one Muniyappa for grain rent. It was the ancestral property of the pattadar and she owns about 2 acres of dry land and 0.50 acre of wet land in this village. The petitioner or tenant cultivating in the land have no right to challenge the Land Acquisition proceedings.

8.Further it is stated that one Thiru.Sampangi S/o(Late) Muniyappa have encroached the said land from the past many years. The encroachers have no patta for the said land and the encroachers have adamantly encroached the acquired land and cultivating feeder grass to the cattle. There are many coconut trees in the acquired land. The tenants of lands from the very beginning not co-operated the Land Acquisition enquiry and not attended for award enquiry. Hence, the Compensation amount of Rs.11,416.05/- has been deposited in the Sub Court Krishnagiri u/s 30 of the Land Acquisition Act. The acquired land is not with the Government and the said land is under the possession of the beneficiaries. The beneficiaries have not constructed houses due to frequent filing of suits and writs in the civil courts. This apart, the tenant Thiru.Muniyappa had filed a writ in W.P.No.1748/1985, challenging the Land Acquisition Proceeding of

the Special Tahsildar(ADW). This Hon'ble Court by its order dated 06.12.1993 has directed the respondent to refer the matter u/s 18 and 30 of the Land Acquisition Act in the appropriate Court. As per the orders of this Hon'ble Court reference u/s 18 of Land Acquisition Act was made in Sub Court, Krishnagiri. Further, a sum of Rs.2,216.80/- enhanced compensation as per the Amended Act. The amount was deposited in the Sub Court in LAOP No.19/1985. The acquired land is not with the Government and the said land is under the possession of the beneficiaries. But, the beneficiaries have not constructed houses due to frequent filing of writs. There is no provision or law to re convey the subject land to the tenant. If the subject land is re conveyed the welfare scheme of the Government will be defeated and the Government will face great hardship.

9.In paragraph 12 of the Status report, it is stated that the writ petitioner Narasimma S/o.Ramappa is no way concerned with the acquisition of land. The said Narasimma is a priest in the Uthama Karagam Temple. The tenant Thiru.Sampangi, S/o.Muniyappa has filed this petition in the name of the petitioner. The petitioner has not cultivated the acquired land at any time. The writ petitioner himself has sent a letter to the Director of Adi Dravidar and Tribal Welfare Department, Chennai stating that he is no way concerned with the present writ petition. The petitioner has also alleges that the tenant Thiru.Sampangi, S/o.(Late) Muniyappa has misused his name for his personal gains and filed this petition without the consent of the petitioner. The petitioner has also stated that he is ready to withdraw the petition and also requested to dismiss the writ petition. It is further stated that the tenant Thiru.Sampangi, S/o.(Late) Muniyappa has misled this Hon'ble Court by filing false petition in the name of a 3rd party and hence the petition is not maintainable.

10.In view of the serious allegations raised by the respondents and in view of the letter sent by the writ petitioner to the authorities concerned that the petitioner has not filed the present writ petition and his name was misused. This Court directed the writ petitioner to be present and pursuant to the directions of this Court, Mr.V.Niranjana Kumar, Special Tahsildar(ADW), Krishnagiri District as well as Mr.Narasimma were present before this Court today on 11.01.2019. On examination, Mr.Narasimma produced his certificates issued by the Village Administrative Officer, 78, Motham Agraharam Village, Hosur Taluk and also produced Nativity certificate issued by the authorities and the Aadhar Card, Ration Card and Voter ID card issued by the Election Commission of India.

11.This Court, with the assistance of M/s.G.Vimala,

Interpreter, High Court of Madras, secured the statement from Mr.Narasimmappa.

12.In view of this factum, the writ petition deserves no consideration on merits. This apart, the Acquisition proceedings were concluded during the year 1985 itself and the lands in question were allotted in favour of 35 beneficiaries, who all are landless poor Adi Dravida people and the writ petition was filed during the year 2006, after a lapse of 21 years from the completion of the Acquisition proceedings and allotment made in favour of the 35 poor landless Adi Dravida people.

13.This being the factum, no consideration is required in respect of the merits raised in the present writ petition and accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

- 1.The District Collector,
Krishnagiri District.
- 2.The Tahsildar
Krishnagiri District.
- 3.The Secretary and Commissioner
Social Welfare Department
Fort St.George, Madras - 9.
- 4.The Secretary, Hindu Religious Endowment Department
of the State Government, St.George Fort,
Chennai.

+1cc to the Government Pleader, S.R.No. 6027
+1cc to the Special Government Pleader, S.R.No. 5254

W.P.No.46936 of 2006

CP(CO)
GN(13/02/2019)