

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.07.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.16396 of 2010

and

WMP.No.1 of 2010

1. V.Damodharan
2. Radhakrishnan
3. Dhanalakshmi
4. Balamani
5. Shanmugavalli

...Petitioners

vs

1. The District Collector,
Erode District.
2. The Special Tahsildar,
Land Acquisition for Harijan Welfare,
Erode District.
3. Marappa Gounder

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the first respondent relating to sec.4(1) notification under the Act 31/78 issued in RCC No.128038/95/T.2 dated 28.12.1995 published in Periyar District gazette dated 06.01.1996 and consequential award passed by the second respondent in Award No.31/96A in L.A.No.4/95A dated 25.03.1996 in respect of R.S.No.182/2 to the extent of 1.03 acres in Periya Semur village, Erode Taluk & District and to quash the same so far as the petitioner's lands are concerned.

For Petitioner

: M/s.I.C.Vasudevan

For Respondents

: Mr.M.Elumalai,

Government Advocate for R1 & R2

R3 dismissed vide court order dt:11.01.12

O R D E R

The petitioner has filed this Writ Petition, to issue a writ of Certiorari to call for the records of the first

respondent relating to sec.4(1) notification under the Act 31/78 issued in RCC No.128038/95/T.2 dated 28.12.1995 published in Periyar District gazette dated 06.01.1996 and consequential award passed by the second respondent in Award No.31/96A in L.A.No.4/95A dated 25.03.1996 in respect of R.S.No.182/2 to the extent of 1.03 acres in Periya Semur village, Erode Taluk & District and to quash the same so far as the petitioner's lands are concerned.

2. The case of the petitioner is that his father owned 1 acre 3 cents of land in R.S.No.182/2 of Periya Semur Village, Erode Taluk & District. The revenue records as well as the other records stood in the name of the petitioner's father. After his death the legal heirs were in possession and enjoyment of the property. The other co-sharers of the land in the same survey sold their respective land to the extent of 2 acres to one Marappa Gounder, the first respondent published a notification dated 06.01.1996 in Form No.II under Sec.4(1) of Tamil Nadu Acquisition of land for Harijan Welfare Scheme Act 1978 notifying to the effect that it is become necessary to acquire the said entire land in R.S.No.182/2 by the second respondent for constructing houses for Harijans of that locality and to take immediate possession of the land. Further it is stated that based on the said 4(1) notification, the first respondent passed the award vide his proceedings in Award No.31/19(A) in land Acquisition IP.No.4/95 dated 25.03.1996 regarding R.S.No.182/2 in Periya Semur Village.

3. The learned counsel for the petitioner submitted that though there was a proper explanation for filing writ petition after four years, the fact remains that notification was published without following procedure contemplated under the Act.

4. Per contra the learned Government Advocate would submit that after passing award, the entire extent of land of 3.03 acres belonging to the petitioners was taken. Further he submitted that though the land belonged to the petitioners, under Land Acquisition Act proceedings, award has been passed in favour of Marappa Goundar who is the subsequent owner, who purchased to the extent of 2 acres from the other co-shares of the land.

5. The learned Government Advocate submitted that after passing notification and award, possession was taken over and the same was handed over to the Panchayats. Further, in the same issue, similar writ petitions have been filed before this Court and such writ petitions have been dismissed. He further submitted that W.P.Nos.9829 of 1997, 9830 of 1997 has been dismissed by this Court on 22.09.2004, against which the

aggrieved party filed in W.A.Nos.208 & 209 of 2006 were also dismissed on 27.10.2009.

6. In view of the above discussion and considering the facts and circumstances of the case, fresh notification was published and thereafter award was passed in the year 1996 and thereafter possession was taken over. The petitioner filed the writ petition in the year 2010, after a lapse of four years of passing of Award and for the said delay, no proper explanation is given before this Court.

7. I do not find any reason to interfere with the Award in the light of the submissions made by the learned Government Advocate. Accordingly, the Writ Petition is dismissed with liberty to the petitioners to work out his remedy against the person who is alleged to have received the compensation for the extent of land belonged to them. No costs. Consequently connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,
Erode District.

2. The Special Tahsildar,
Land Acquisition for Harijan Welfare,
Erode District.

+1cc to Mr.I.C.Vasudevan, Advocate, S.R.No.60585

+1cc to the Government Pleader, S.R.No.60729

W.P.No.16396 of 2010
and
WMP.No.1 of 2010

SV(CO)
SP(29/08/2019)