

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2019

CORAM

THE HON'BLE Mr. JUSTICE M.DHANDAPANI

W.P.Nos.17827, 18858 to 18860 of 2010
and M.P.No.2/2010 (3 petitions), W.M.P.No.11021 of 2016

- 1.Samsudeen
- 2.Mohamed Isaq
- 3.Liyagad Ali
- 4.Bogaurdee
- 5.Arif Rahman (deceased)
- 6.Rasul Beevi
- 7.Samul Hudua
- 8.Mohamed Ali Jinnah
- 9.Hamjamma
- 10.Hajanoural Hanisha
- 11.Minor Nurual Nadirah
rep.by her mother and natural guardian
Mrs.Hamjamma

... Petitioners in W.P.No.17827/2010
(Petitioners 9 to 11 are substituted
vide order dated 13.08.2019 in WMP.No.11021/2016)

A.Hamjamma ... Petitioners in W.P.No.18558/2010

Samsudeen ... Petitioners in W.P.No.18559/2010

S.Erasool Beevi ... Petitioners in
W.P.No.18560/2010

Vs.

Deputy District Revenue Officer/
District Collector
Karaikal

... Respondents in all W.Ps

COMMON PRAYER: Writ Petitions filed under Article 226 of The Constitution of India praying to issue writ of Certiorari to call for the records of the respondent in the notification under Section 4(1) of the Land Acquisition Act, 1894 followed by Section 6 declaration published in the Gazette of Puducherry No.55 dated 22.07.2009 for acquisition of the petitioners land in R.S.No.161/6 situated at Thirunallar to an extent of 39 Are 50 centihars, R.S.No.161/5/B situated at Thirunallar to an extent of 0-07-50, R.S.No.55/3 situated at Thirunallar to an extent of 0-26-50 and R.S.No.161/5/B situated at Thirunallar to an extent of 0.07.50 respectively and to quash the same.

For Petitioners
in all W.P.s : Mr.S.Radha Gopalan
For Respondent
in all W.P.s : Mr.J.Kumaran
Additional Government Pleader
(Puducherry)

O R D E R

The case of the petitioners are that they are the land owners of the land in R.S.No.161/6 situated at Thirunallar to an extent of 39 are 50 centihars, R.S.No.161/5/B situated at Thirunallar to an extent of 0-07-50, R.S.No.55/3 situated at Thirunallar to an extent of 0-26-50. Their lands were acquired for the purpose of development of temple town Thirunallar (Ring Road and for providing basic amenities), Karaikkal District. The said proposal was approved by the Additional Secretary to the Government, Department of Revenue and Disaster management, Puducherry vide G.O.Ms.No.62 dated 23.07.2007 for publication of notification under Section 4 (1) of the Land Acquisition Act 1894 and simultaneously, the notification was published in the Government Gazette no.79 dated 06.08.2007. After the publication of 4(1) notification, notices under Section 5-A were served on the petitioner on 04.04.2008 by fixing the date for enquiry on 30.04.2008 to each and every individual landowners / interested person in and around Karaikal and some of the landowners in outlying regions and abroad. For conducting the 5A enquiry, Section 6 declaration was published on 22.07.2009. Challenging the Section 4(1) and 6 notification, these writ petitions have been filed before this Court.

2. The learned counsel for the petitioners would submit that in the present case, Section 6 notification was published beyond one year period. Hence the entire land acquisition proceedings is liable to be quashed.

3. The learned Additional Government Pleader appearing for the respondents fairly admitted that there was a delay in issuing the Notification under Section 6. Admittedly Section 4 notification was on 06.08.2007 and Section 6 declaration was passed on 22.07.2009. The learned Additional Government Pleader reiterated the paragraph Nos.5 and 6 of the counter affidavit and the same reads as follows:

5. Since, it is clearly contemplated in the Act that the person interested in the land are entitled to be heard and it is a mandatory to give an opportunity of hearing the landowners/interested, most of the landowners have been enquired and which consumed lot of time and caused a span of more than one year from the date of 4(1) notification to make a declaration under

Section 6 of the L.A.Act. Whereas, the delay has to be viewed in the over all context from the initiation of the proceedings and not from the narrow terminus merely from the date of Section 6 notification.

6. The fact that there was numerous hectares of land belonging to numbers of person were the subject matter of acquisition and individual objection had to be heard, it could not be said that delay in making notification was an inordinate delay.

and would submit that since large number of land owners are available, to conduct Section 5(a) enquiry, it requires some time beyond 6 years.

4. This Court is of the view that it is an admitted fact that Section 4 notification was published on 06.08.2007, however declaration under Section 6 was issued on 22.07.2009, which is beyond the period of one year. Hence, I have no hesitation to allow the writ petition on the above said sole ground.

5. The writ petitions stand allowed and the records of the respondent in the notification under Section 4(1) of the Land Acquisition Act, 1894 followed by Section 6 declaration published in the Gazette of Puducherry No.55 dated 22.07.2009 for acquisition of the petitioners land is quashed in respect of the petitioners' land alone. No costs. Consequently connected miscellaneous petitions are closed.

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

Deputy District Revenue Officer/
District Collector
Karaikal.

+4 CC to Mr.S.Radha Gopalan, Advocate sr 68878 to 68881.
+1 CC to The Govt. Pleader sr 69048.

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GJII(CO)
SP(17/09/2019)