

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2019

CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

W.P. 22910 of 2010

and

M.P. 1 of 2010

Hirasath Khan Jumma Mosque,
rep. by its Muthawalli
Syed Munavar,
Gundalapalli Road,
Aravatla Village, Near Sathgar,
Vellore District.

... Petitioner

Vs

1. The Government of Tamil Nadu,
rep. by its Secretary to Government,
Adi-Dravida Welfare Department,
Fort St. George,
Chennai-600 009.
2. The District Collector,
Vellore District,
Sathuvacheri,
Vellore.
3. The Special Tahsildar,
Land Acquisition,
Adi-Dravida Welfare,
Gudiyatham,
Vellore District.
4. The Tamil Nadu Wakf Board,
rep. by its Chief Executive Officer,
No.1, Jaffar Syrang Street.
Chennai-600 001.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling upon the records relating to the orders of the 3rd respondent made in proceedings in Na.Ka.A/1871/95, dated 16.09.2010 and quash the same and direct the respondents 1 to 3 to release the wakf property in Old Survey No.1A, Sub-divided New Survey No.389, Aravatla Village, Gudiyatham Taluk, Vellore District from the purview of the alleged land acquisition.

For Petitioner : Mr.A.S.Kaizer

For Respondents

: Mr.M.Elumalai,
Govt. Pleader for R1 to R3
M/s.V.Raghavachari for R4

ORDER

This Writ Petition has been filed challenging the impugned order of the 3rd respondent dated 16.09.2010 and quash the same and direct the respondents 1 to 3 to release the wakf property in Old Survey No.1A, Sub-divided New Survey No.389, Aravatla Village, Gudiyatham Taluk, Vellore District from the purview of the alleged land acquisition.

2. The case of the petitioner is that the petitioner's wakf called Hirasath Khan Jumma Mosque is a surveyed and notified wakf, which is coming under the supervisory control of the Tamil Nadu Wakf Board, the 4th respondent herein and its Gazette Serial Number is 133/1A and the property is under the administrative control of 4th respondent Wakf. The petitioner wakf owned lot of landed properties in Old Survey No.1A, sub-divided New Survey No.389, Aravatla Village. While being so, the 3rd respondent is trying to acquire the lands under the Harijan Welfare Scheme. Aggrieved by the said high-handedness, the petitioner has made a representation to the authorities for objecting the acquisition. However, for not considering the said objection, the petitioner is forced to file a Writ Petition in W.P.No.41214 of 2005 before this Court and this Court by its order dated 02.12.2009 directed the 1st respondent therein, viz., District Collector, Vellore District to consider the petitioner's representation dated 29.10.2004 within a period of twelve weeks from the date of receipt of the order. Thereafter, the petitioner has made a representation to the District Collector, however, instead of District Collector, the Special Tahsildar has issued a notice calling upon the petitioner to appear and file the documents. Against which, the present Writ Petition has been filed.

3. The learned counsels appearing for the petitioner as well as the 4th respondent would submit that the order of this Court was informed to the Special Tahsildar stating that he is not a competent authority to decide the issue. The competent authority is the District Collector, but even after that, the Special Tahsildar has passed the order. Accordingly, he has filed the present Writ Petition and prayed to allow this Writ Petition.

4. The learned Government Advocate appearing for the respondents 1 to 3 would submit that he did not dispute the fact submitted by the learned counsel appearing for the petitioner.

5. On perusal of the records, it shows that in the earlier occasion, this Court has directed the District Collector to consider the petitioner's representation dated 29.10.2004 within a period of twelve weeks, but instead of District Collector, the Special Tahsildar has issued a notice calling upon the petitioner as well as 4th respondent for enquiry against the order of this Court. Hence, the order dated 16.09.2010 is liable to be quashed. Accordingly, the impugned order passed by the 3rd respondent in Na.Ka.A/1871/95, dated 16.09.2010 is quashed. However, the 2nd respondent viz., District Collector, Vellore District, Sathuvachari, Vellore is directed to send notice to the petitioner and pass appropriate orders in terms of the order of this Court in W.P. No.41214 of 2005. In so far as the Miscellaneous Petition in M.P.No.1 of 2010 is concerned, interim order granted by this Court vide order dated 07.10.2010 shall be continued till the disposal of the petitioner's representation dated 29.10.2004. Accordingly, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government, Government of Tamil Nadu, Adi-Dravida Welfare Department, Fort St. George, Chennai-9.
2. The District Collector, Vellore District, Sathuvacheri, Vellore.
3. The Special Tahsildar, Land Acquisition, Adi-Dravida Welfare, Gudiyatham, Vellore District.
4. The Chief Executive Officer, Tamil Nadu Wakf Board, No.1, Jaffar Syrang Street. Chennai-600 001.