

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 05.07.2019
CORAM

THE HON'BLE Mr. JUSTICE M.DHANDAPANI, J.
W.P.Nos.33853 of 2005 & 24556 of 2006
W.M.P.Nos.36751 to 36753 of 2005 & 2 of 2006

Sampath Udayar

...Petitioners in all W.Ps

vs

- 1.Union of India,
Rep.by Chief Secretary,
Government of Pondicherry,
Pondicherry.
2. Deputy District Collector, (Revenue),
South Villianur,
Pondicherry. ... Respondents in W.P.No.33853 of 2005
1. Union of India,
Union Territory of Pondicherry,
rep.by the Addl.Secretary to Govt.(Revenue),
Government of Pondicherry,
Pondicherry.
2. The Deputy Collector (Revenue)-South
-cum-Land Acquisition Officer,
Villianur,
Pondicherry. ...Respondents in W.P.No.24556 of 2006

Prayer in W.P.No.33853 of 2005: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the Section 4 (1) Notification bearing No.621/DCRS/LA/2004 dated 15.07.2005 issued by the second respondent herein in respect of the land comprised in Re-Survey No.5/1A in Deydampakkam Village, Villianur Taluk, Pondicherry and quash the same.

Prayer in W.P.No.24556 of 2006: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the Declaration under Section 6 of the Land Acquisition Act bearing G.O.(Ms).No.51, Revenue-Cum-Disaster-Management Department, dated 13.07.2006 on the file of the 1st respondent and to quash the same.

For Petitioner : Mr.R.Venkatesalu
in W.P.No.33853 of 2005 for M/s.Usha Raman

For Petitioner : M/s.T.M.Naveen
in W.P.No.24556 of 2006 for M/s.D.Kamatchi

For Respondents : Mrs.N.Mala
in all W.Ps Additional Government Pleader

O R D E R

The prayer in W.P.No.33853 of 2005 is for issuance of a Writ of Certiorari, to call for the records relating to the Section 4(1) Notification bearing No.621/DCRS/IA/2004 dated 15.07.2005 issued by the second respondent herein in respect of the land comprised in Re-survey No.5/1A in Deydampakkam Village, Villianur Taluk, Pondicherry and quash the same.

2. The prayer in W.P.No.24556 of 2006 is for issuance of a Writ of Certiorari, to call for the records relating to the Declaration under Section 6 of the Land Acquisition Act bearing G.O.(Ms).No.51, Revenue-Cum-Disaster-Management Department, dated 13.07.2006 on the file of the 1st respondent and to quash the same.

3. The case of the petitioner is that the petitioner is the owner of the land in Re-survey No.5/1A in Deydampakkam Village, Villianur Taluk, Pondicherry to an extent of 0.50 cents, having acquired the same through a Deed of sale dated 11.07.1976 executed by one Manicka Vasaga Reddiar in favour of the petitioner. The petitioner is in possession and enjoyment of the said land from the date of his purchase in the year 1976 till date. While so, a notification dated 15.07.2005 under Section 4 (1) of the Land Acquisition Act, 1894, has been issued by the second respondent herein for acquisition for the said lands. The said notification has been issued in the name of one Rajaram Reddiar, who is the relative of the erstwhile owner. The said Rajaram Reddiar passed on a copy of the said notification to the petitioner and therefore, the petitioner came to know about the matter of the proposed acquisition of his land. The petitioner submitted a representation dated 05.08.2005, in which he putforth his objections to the second respondent and proof of his ownership of the said lands. In the said representation, the petitioner had mentioned that he is ready to espouse the cause of the Government for the welfare of Adi-Dravidar Community by offering an equal extent of land owned by him in another survey

number in the same village. But the petitioner till date has not received any response to his representation from the second respondent.

4. In another writ petition, the very same land, the 1st respondent has published a Declaration under Section 6 of the Land Acquisition Act, dated 13.07.2006, declaring that the petitioner's land in R.S.No.5/1A to an extent of 0.50.00 HAC is required for the purpose of providing house sites to the Adi-Dravidar Community. But the petitioner has used the land in R.S.No.5/1A for cultivation. Therefore, the petitioner is ready to espouse the cause of the Government by offering an equal extent of land owned by him in another survey number in the same village. But the petitioner's representation was not considered by the respondents. Challenging the impugned orders, the present writ petitions are filed.

5. The learned counsel for the petitioner would submit that there is no independent application of mind by the acquisition officer as well as the approving authority. The petitioner is offering a valuable land adjacent to his property in another survey number in the same village, but the request of the petitioner was rejected by the respondents, which is unsustainable one.

6. The learned Additional Government Pleader appearing for the respondents stated in the counter affidavit that initially the Site Selection Committee inspected the land in R.S.No.5/1A of Thetampakkam Revenue Village and approved for acquisition of the said land for provision of free house sites to Adi Dravidars. The learned counsel submits that the requisitioning body, overruled the objection stating that the Scheduled Caste people in the said area are very much pressing for allotment of house sites in the land in R.S.No.5/1A and not acceptable for any other alternative house site, as was suggested by the petitioner.

7. The short issue in the present case is that whether the beneficiaries have right to choose the disputed lands or not.

8. The petitioner is the owner of the land in Re-survey No.5/1A to an extent of 0.50 cents and the same was acquired through a sale deed dated 11.07.1976. The said land was acquired through 4(1) notification dated 15.07.2005 under the Land Acquisition Act for the purpose of providing house sites to Adi-

Dravidars. The petitioner made a representation dated 05.08.2005, stating that he is ready to provide an equal extent of land in another survey number, which is situated adjacent to the present disputed lands. After conducting an enquiry, the 1st respondent had published a Declaration under Section 6 of the Land Acquisition Act, dated 13.07.2006 for providing house sites to the Adi-Dravidars.

9. The undisputed facts are that though the petitioner made objection for acquiring the present disputed land, however, in his affidavit, he clearly stated that he is ready to offer because for the welfare of the Adi Dravida Community, the lands are acquired and he is prepared to offer an equal extent of land in S.No.5/7 in the same village.

10. The Government of Puducherry did not dispute the fact that alternate site offered by the petitioner. However, the requisition body overruled the objection stating that since the Schedule Caste people are very much pressing for allotment of house-sites in R.S.No.5/1A. Accordingly, the request for providing alternate site was rejected.

11. Now this Court has to consider whether the requisition body has interacted with the beneficiaries while dealing the objection of the petitioner.

12. On a persual of Section 4(1) of the Land Acquisition Act, the District Collector or the Acquisition Officer is required to take appropriate decision for acquiring the land. However, the Acquisition Officer did not reflect his application of mind while dealing with the alternate site provided by the petitioner and getting consent from the beneficiaries does not arise.

13. In the present case, without application of mind, the District Collector simply overruled the offer made by the petitioner is arbitrary and liable to be interfered with. Hence, I have no hesitation to allow the writ petition. Accordingly, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssb

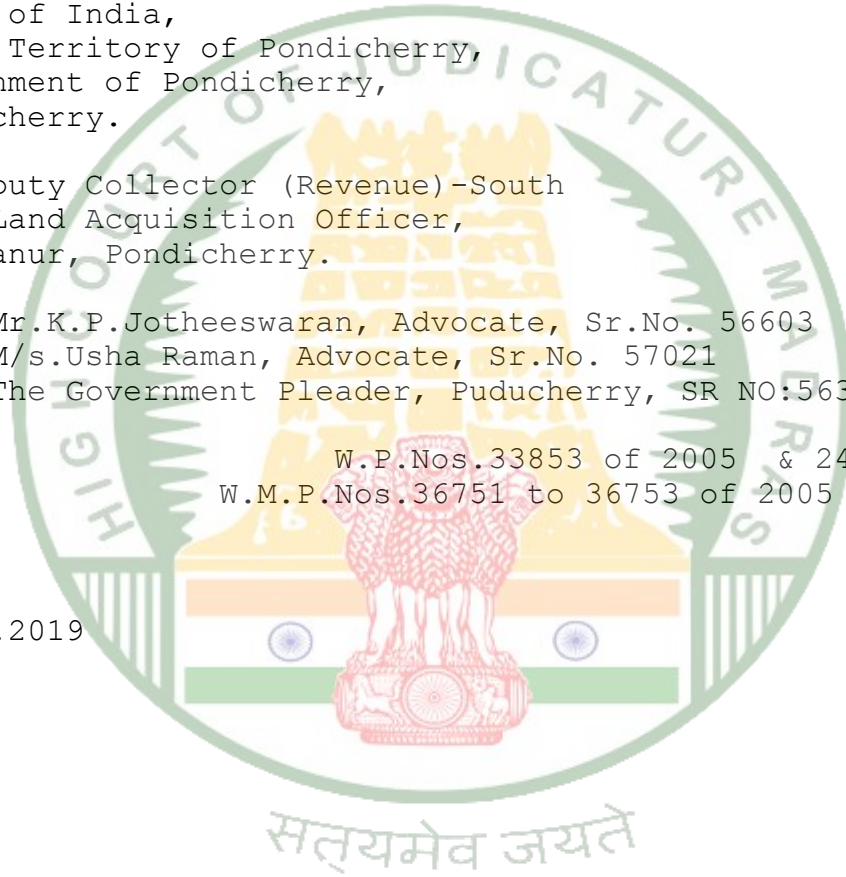
To

- 1.The Chief Secretary,Union of India,
Government of Pondicherry,
Pondicherry.
2. Deputy District Collector, (Revenue),
South Villianur,
Pondicherry.
3. The Addl.Secretary to Govt.(Revenue),
Union of India,
Union Territory of Pondicherry,
Government of Pondicherry,
Pondicherry.
4. The Deputy Collector (Revenue)-South
-cum-Land Acquisition Officer,
Villianur, Pondicherry.

+1 cc to Mr.K.P.Jotheeswaran, Advocate, Sr.No. 56603
+1 cc to M/s.Usha Raman, Advocate, Sr.No. 57021
+1 cc to The Government Pleader, Puducherry, SR NO:56364

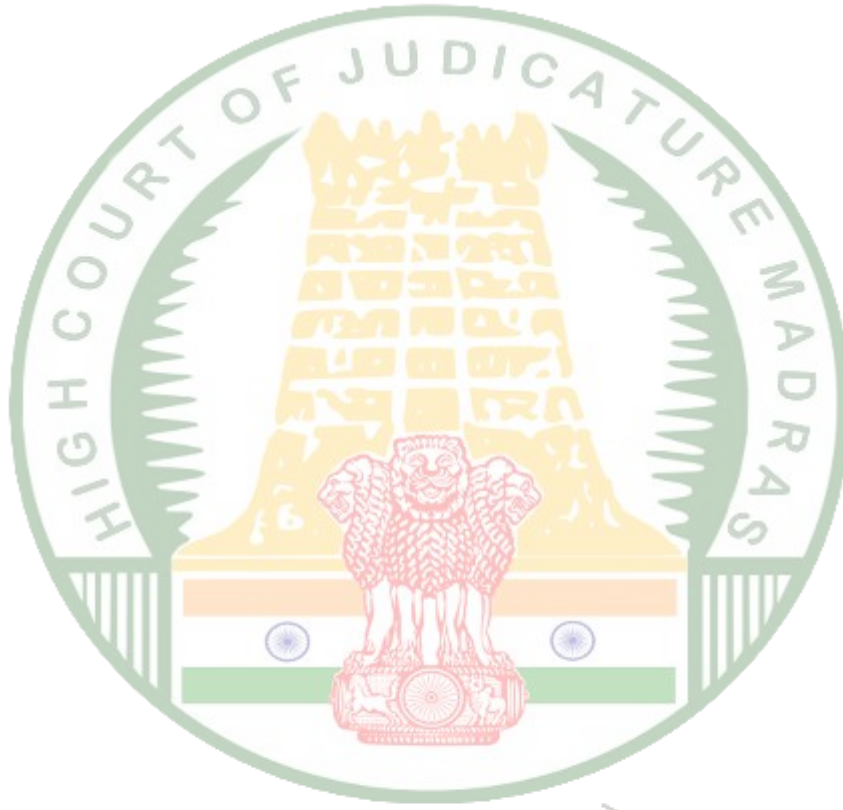
W.P.Nos.33853 of 2005 & 24556 of 2006
W.M.P.Nos.36751 to 36753 of 2005 & 2 of 2006

MG (CO)
CSL/30.07.2019



WEB COPY

05.07.2019



सत्यमेव जयते

WEB COPY