

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2019

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.38228, 38230, 38231, 38243 to 38247 of 2005

N.RAVICHANDRAN ... PETITIONER IN W.P.38228 OF 2005  
V.RAMAMURTHY ... PETITIONER IN W.P.38230 OF 2005  
1.LAKSHMI AMMAL  
2.MALLIKA SAMBASIVAM  
3.V.RAMAMURTHY  
(P2 AND P3 ARE SUBSTITUTED  
AS LRS OF DECEASED) ... PETITIONER IN W.P.38231 OF 2005  
VALAYAPTHI ... PETITIONER IN W.P.38243 OF 2005  
S.MUTHAIAN ... PETITIONER IN W.P.38244 OF 2005  
VIJAYALAKSHMI ... PETITIONER IN W.P.38245 OF 2005  
ANJALTCHI AMMAL ... PETITIONER IN W.P.38246 OF 2005  
A.GANESAN ... PETITIONER IN W.P.38247 OF 2005

Vs.

1.The District Collector,  
Villupuram District, Villupuram.

2.The Special Tahsildhar,  
(Adi Dravidar Welfare)  
Ulundurpet Taluk,  
Ulundurpet, Villupuram District.

3.The President  
Anathur Panchayat,  
Ulundurpet Taluk,  
Villupuram District.

... Respondents in all WPs

Common Prayer in all WPs:Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records pertaining to the proceedings of the first respondent in his letter Na.Ka.EM5/58610/ 2004 dated 13.10.05 and quash the same in so far as the petitioner herein is concerned.

For Petitioner : \* **Mr.V.R.Kamalanathan**

For Respondents: Mr.M.Elumalai  
Government Advocate

C O M M O N O R D E R

The issue involved in all these writ petitions is one and the same. Hence, they are heard together and a common order is passed.

2. One Lakshmi Ammal/ petitioner in W.P.No.38231 of 2005 and the petitioner in W.P.No.38230 of 2005 are mother and son respectively, and they are the original owners of the property situated in S.Nos.137/1 and 137/2, Anathur Village. During the pendency of these writ petitions the said Lakshmi Ammal died and her legal heirs are substituted as petitioners in W.P.No.38231 of 2005.

3. The petitioner in W.P.No.38228 of 2005 is the subsequent purchaser who purchased the property in Resurvey No.137/2, Anathur Village, Ulundurpet Taluk, Villupuram, from V.Ramamurthy/ petitioner in W.P.No.38230 of 2005, through sale deed dated 16.12.2004 registered as Document No.1744/2004 on the file of the Office of the Sub-Registrar at Thiruvannainallur. Thereafter, he applied for approval of housing site and got approved by the local Authorities vide Resolution No.53 dated 04.08.2005. Thereafter, he sold the plots to various purchasers and retained an extent of eight cents and he is in possession and enjoyment of the said eight cents.

4. The petitioners in W.P.Nos.38243 to 38247 of 2005 are the subsequent purchasers who purchased the property from N.Ravichandran/ petitioner in W.P.No.38228 of 2005.

5. The case of the petitioners is that the District Collector, Villupuram District, proposed to acquire the lands in S.No.137/1 and 137/2, Anathur Village. The original owners submitted their objections, however, overlooking their objections, Notification under Section 4 (1) of the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act, 1978 was issued on 13.10.2005. Aggrieved by the same, the petitioners have filed these writ petitions.

6. The learned counsel appearing for the petitioners would submit that one of the petitioners namely, N.Ravichandran purchased the property in Resurvey No.137/2, Anathur Village, Ulundurpet Taluk, Villupuram, from V.Ramamurthy/ petitioner in W.P.No.38230 of 2005. Thereafter, he applied for approval of housing site and got approval from the local Authorities vide Resolution No.53 dated 04.08.2005. Thereafter, he sold the plots to various purchasers and retained an extent of eight cents. However, the Notification under Section 4 (1) of the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act, 1978 was not issued in favour of Ravichandran and it was issued only in favour of the original owners namely, Ramamurthy and Lakshmi Ammal on 13.10.2005.

7. The learned counsel appearing for the petitioners would further submit that the original owners after receipt of the Notification appeared before the Special Tahsildar and submitted their objections stating that in the earlier occasion, they have

parted huge lands for providing house-sites and for formation of pathway to Arundhathiar Burial ground. Thereafter, the petitioners land was sought to be acquired for providing house-sites to Harijans and he made objection stating that he has only small piece of land. Further he made objection that one Easwari Ammal Temple is situated in the above said land. However, all these were not considered by the Special Tahsildar.

8.The learned counsel appearing for the petitioners would further submit that the petitioner also came forward to provide alternative land for house-sites to Harijan Welfare which is just 1-1/2 k.m. from the land which is sought to be acquired. However, the Special Tahsildar mechanically recommended for acquisition and simply recorded that the beneficiaries were not willing to accept the alternative land, which is illegal. He would further submit that the District Collector approved the recommendation made by the Special Tahsildar without application of mind.

9.In support of his contentions, the learned counsel relied upon the decision of the Full Bench of this Court reported in (2006) 4 CTC 609 (R.Pari Vs. The Special Tahsildar, Adi Dravidar Welfare, Divakottai (Pasumpon Muthuramalinga Thevar District) and another), the relevant portion of which, reads as follows:

"42.However, it is necessary to enter a small caveat. The observation made by the Division bench or the judge regarding requirement to indicate reason while passing the order has to be understood in the context of non-application of mind. Even though in a given case the order which is communicated to the land owner does not indicate any reason why the objection has been rejected, if the application of mind is reflected in the file even by way of nothings and endorsements, the ultimate decision to acquire the land cannot be said to be vitiated merely because the order which is communicated to the land owner/objector does not contain any detailed reasons. The requirement is that the materials on record, that is to say the relevant file, should indicate application of mind to the relevant facts and circumstances and not passing of a formal reasoned order as is required in judicial or quasi-judicial proceedings. The function obviously being administrative in nature, it is futile to expect furnishing of detailed reasons in the order which is communicated to the person. It is necessary to enter such

caveat lest it may be construed that in every case, where the order of rejection communicated to the land owner does not contain the reasons, the proceeding stands vitiated. Ultimately the court is required to find out in each case whether there has been application of mind. Therefore, the brief reasons, which are contemplated, can be given either in the file in the shape of nothings, endorsements, etc., or even can be reflected in the order. But, mere non-reflection of reasons in the order communicated or in the notice published in the Gazette, would not be sufficient to hold that there has been non-application of mind and the question as to whether there has been application of mind or non-application is required to be considered on the basis of the return filed and the relevant file to be produced before the Court.

43. In view of the aforesaid discussion, our conclusions are as follows:  
The owner should be furnished with a copy of the report / recommendation of the authorised officer. Thereafter, he should be given two weeks' time to make further representation, if any, before the District Collector. It is not necessary for the District Collector to give a further personal hearing or make any further enquiry. However, mere non-furnishing of the report would not have the ipso facto effect of vitiating the proceedings and the question of prejudice to the land owner is required to be considered in each case depending upon the facts and circumstances. The District Collector is expected to reflect the reasons, but merely because the communication to the land owner does not contain the reasons, the decision of the Collector is not ipso facto vitiated and it would always open to the concerned authority to prove before the Court, if such action of the Collector is challenged, that there has been application of mind and the reasons are available in the relevant records relating to such acquisition. The necessity to record the reasons is applicable where the Collector himself makes the enquiry and also where the Collector takes an appropriate

decision on the basis of the report/recommendation made by the authorised officer."

10. Per contra, the learned Government Advocate appearing on behalf of the respondents would submit that the acquisition proceedings were initiated on 03.11.2004 and Ramamurthy made his objections on 30.11.2004 and further after coming to know about the initiation of land acquisition proceedings against him, he sold portion of the land to one Ravichandran in order to defeat the land acquisition proceedings.

11. The learned Government Advocate appearing for the respondents would further submit that the Special Tahsildar considered the objections made by the land owners as well as the subsequent purchasers and recommended for acquisition. The District Collector approved the recommendation made by the Special Tahsildar. Hence, the District Collector after application of mind passed the impugned proceedings which need not be interfered with. Accordingly, he prayed for the dismissal of the writ petitions.

12. Heard the submissions made on either side and perused the materials available on record. The Special Tahsildar (Adi Dravidar Welfare), Ulundurpet Taluk, Ulundurpet, Villupuram District, appeared before this Court today and produced the relevant file for perusal of this Court. This Court also perused the file produced by the Special Tahsildar.

13. In the present case, the original owners of the property situated in S.No.137/1 and 137/2, Anathur Village are one Ramamurthy and his mother Lakshmi Ammal. The said Ramamurthy sold a portion of his land in the year 2004 to one Ravichandran who is also a petitioner herein. Thereafter, the said Ravichandran applied for approval of housing site and got approval from the local Authorities vide Resolution No.53 dated 04.08.2005. Thereafter, he sold the plots to various purchasers and retained an extent of eight cents. Land acquisition proceedings proposing to acquire the above said lands were initiated against the original owners.

14. As per the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act, 1978, there is no prohibition for subsequent alienation in favour of third parties. It is also well settled that the subsequent purchasers are entitled to receive possession and not entitled to challenge the acquisition proceedings.

15. The issue involved in the present case is whether the District Collector applied his mind while approving the

recommendation made by the Special Tahsildhar.

16.The Full Bench of this Court in its decision reported in (2006) 4 CTC 609 (R.Pari Vs. The Special Tahsildar, Adi Dravidar Welfare, Divakottai (Pasumpon Muthuramalinga Thevar District) and another), made it clear that the District Collector is expected to reflect the reasons, but merely because the communication to the land owner does not contain the reasons, the decision of the Collector is not ipso facto vitiated and it is open to the concerned authority to prove before the Court, if such action of the Collector is challenged, that there has been application of mind and the reasons are available in the relevant records relating to such acquisition.

17.The above decision also makes it clear that in each case this Court has to find out the application of mind of the District Collector if the files reflect any endorsement, underlining or any noting by the District Collector.

18.In the present case, this Court perused the order of the District Collector and the recommendation of the Special Tahsildhar. The recommendation of the Special Tahsildhar is found in page no.41 of the file. The said recommendation reveal that Ramamurthy/ one of the petitioner is having vast extent of land and alternative land was offered by the said Ramamurthy to the beneficiaries and the beneficiaries are not willing to accept the alternative land offered by the said Ramamurthy.

19.The Special Tahsildhar in his recommendation made it clear that the beneficiaries are not interested in accepting the alternative land proposed by Ramamurthy/ one of the petitioner. The said recommendation is arbitrary for the simple reason that the Special Tahsildar appointed as Land Acquisition Officer by the District Collector for facilitating land acquisition in favour of landless poor is expected to act after field inspection whether that alternative land is suitable for housing purpose, however, in the present case, the Special Tahsildar reflect the mind of the beneficiaries. The Special Tahsildhar has to act as a Quasi Judicial Authority impartially inbetween the land loser and the beneficiary, however, in the present case, the Special Tahsildar accepted to interact with the beneficiaries and accepted their wish which is a clear case of arbitrary. Hence, that recommendation made by the Special Tahsildar and the same accepted by the District Collector is in clear violation of well established procedure.

20.The order of the District Collector is found in page no.357 of the file. Perusal of the order shows that the entire order was in blue ink, however, the signature of the District Collector is in black ink. Further, there is no endorsement, underlining or noting made by the District Collector. All the

above reveals the non application of mind of the District Collector in approving the recommendation of the Special Tahsildhar and the entire proceedings stand vitiated.

21.In view of all the above, the writ petitions are allowed and the impugned proceedings is quashed in so far as the petitioners are concerned. No costs. Consequently, connected miscellaneous petitions, if any, are closed.

Sd/-

Assistant Registrar(CO)

Dated: 10/07/2019

**\*Corrected as per order of this Court dated 04/11/2019 and made in WPs. No. 38228, 38230, 38231, 38243, 38247/05**

**Sd/- Assistant Registrar(CO)**

**Dated: 07/11/2019**

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,  
Villupuram District, Villupuram.

2.The Special Tahsildhar,  
(Adi Dravidar Welfare)  
Ulundurpet Taluk,  
Ulundurpet,Villupuram District.

3.The President  
Anathur Panchayat,  
Ulundurpet Taluk,  
Villupuram District.

+8ccs to Mr.V.R.Kamalanathan, Advocate SR.No. 55616,55612,55613, 55614,55615,55609,55611,55610

+1 cc to Government Pleader Sr.No. 55968,55969,55967

W.P.Nos.38228, 38230, 38231,  
38243 to 38247 of 2005

svi

A.SK(18/09/2019)

GN(07/11/2019)