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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE T. RAJA

Writ Petition No.22040 of 2013

1. G.Dhandapani
 2. K.D.Saroja
 3. D.Bagya Venkatasubramanian
 4. D.Madanagopal
- ... Petitioners

Vs

1. The Secretary to Government,
Adi Dravida and Tribal Welfare Department,
Secretariat, Fort St. George,
Chennai-600 009.
 2. The District Collector,
Coimbatore District,
Coimbatore-641 018.
 3. The Special Tahsildar,
Land Acquisition,
Harijan Welfare,
Collectorate, Coimbatore.
 4. The Commissioner,
Coimbatore Municipal Corporation,
Coimbatore.
- ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the 1st respondent in Letter No.1240/LA2/2008-15 dated 4.7.2013 and quash the same and direct the respondents to hand over the remaining lands measuring 1.59 acres in S.No.517/2, Upplipalayam Village on removing the structure therein to the petitioners.

For Petitioners: M/s.T.Ganesan

For Respondents: Mr.M.Elumalai,
Government Advocate for R1 to 3
Mr.K.Magesh for R4



O R D E R

The present Writ Petition has been filed challenging the proceedings of the 1st respondent in Letter No.1240/LA2/2008-15 dated 4.7.2013 and quash the same with a further direction, directing the respondents to hand over the remaining lands measuring 1.59 acres in S.No.517/2, Upplipalayam Village on removing the structure therein to the petitioners.

2. At this stage, it is pertinent to mention that the very same relief has been granted by this Court in W.P.No.2593/1997 by order dated 02.04.2004 which has been filed seeking to quash the 4(1) Notification issued under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (Act 31 of 1978) dated 23.04.1980 published in the Coimbatore District Gazette dated 20.05.1980 as against which when Writ Appeal was filed, that was also dismissed at the Condone Delay stage on 24.04.2007 and subsequently, G.O.(3D) No.36, Adi Dravida and Tribal Welfare Department, dated 14.11.2007 was issued releasing the lands of the petitioners from land acquisition.

3. The learned Counsel for the petitioners would submit that when the respondent issued 4(1) Notification under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (Act 31 of 1978) dated 23.04.1980 (hereinafter referred to as, 'the Act') published in the Coimbatore District Gazette dated 20.05.1980, the same was already questioned by three petitioners, namely, D.Venkitapathy, D.Dhinakararaj and V.Dhanalaxmi in W.P.No.2593/1997 on various grounds, inter alia contending that there was no application of mind by the District Collector and therefore, the entire land acquisition proceedings stood vitiated. This Court, accepting the case of the petitioners therein allowed the Writ Petition by order dated 02.04.2004 quashing the Notification under Section 4(1) of the Act. As against that when Writ Appeal was filed by the Government with Condone Delay Application, that was also rejected on 24.04.2007 which could be seen from G.O.(3D) No.36 dated 14.11.2007, it is pleaded. Besides that, the respondents till date have not come forward to pay the compensation and since the respondents have no any title or ownership or authority, the petitioners should be allowed to enjoy their lands.

4. A counter affidavit has been filed by the 3rd respondent, namely, the Special Tahsildar, Land Acquisition.

5. Learned Government Advocate appearing for the respondents 1 to 3 also partly admitting the statement made by the learned Counsel for the petitioner stated that this Court in W.P.No.2593/1997 while allowing the prayer for quashing the Notification issued under Section 4(1) of the Act passed an order dated 02.04.2004 against which unsuccessfully Writ Appeal was filed along with Condone Delay Petition and that



was also rejected by order dated 24.04.2007. In this regard, it is relevant to extract paragraph 9 of the counter affidavit here under:

''9. Regarding paragraphs 3, 4 and 5 of the affidavit, it is submitted that the land owner of S.No.512/2 have filed W.P.No.2593/97 and this Hon'ble Court was allowed the same in and by its order dated 2.4.2004 and quashed the Notification u/s.4(1) of the Act the lands comprised in S.No.512/2 and 517/2 measuring to an extent of 7.25 acres in lands in Upplipalayam Village. The judgment was delivered to the land owner of S.No.512/2 who has filed Writ Petition challenging the Land Acquisition Proceedings. But the land owner of S.No.517/2 has not filed any Writ Petition before the High Court, Madras challenging the Land Acquisition Proceedings at that time. The judgment delivered in W.P.2593/97 by this Hon'ble Court is not final. The order of the Apex Court is in force.''

6. The only difficulty expressed by the learned Government Advocate for the respondents 1 to 3 is that the lands were handed over to some of the members, therefore, it would be difficult to get the same back.

7. But this Court is unable to find any justification in the said submission of the learned Government Advocate appearing for the respondents 1 to 3 for the reason that when the Notification issued under Section 4(1) of the Act was quashed by this Court by order dated 02.04.2004 by allowing W.P.No.2593/1997 and as against the same, when the Writ Appeal filed was also rejected at the Condone Delay Stage itself by order dated 24.04.2007 and the petitioner having been not paid with any compensation, the respondents cannot have any authority to continue to have the possession in the lands-in-question. Therefore, following the orders passed by this Court in W.P.No.2593/1997 dated 02.04.2004, the present Writ Petition also deserves to be allowed.

8. In the result, the Writ Petition stands allowed and the proceedings of the 1st respondent in Letter No.1240/LA2/2008-15 dated 4.7.2013 is quashed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar



To

1. The Secretary to Government,
Adi Dravida and Tribal Welfare Department,
Secretariat, Fort St. George,
Chennai-600 009.
2. The District Collector,
Coimbatore District,
Coimbatore-641 018.
3. The Special Tahsildar,
Land Acquisition,
Harijan Welfare,
Collectorate, Coimbatore.
4. The Commissioner,
Coimbatore Municipal Corporation,
Coimbatore.

+1cc to the Government Pleader Sr.94600
+1cc to Mr.Magesh, Advocate Sr.94272

W.P.No.22040 of 2013

pm[co]
srg 26/12/2019