

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2019

CORAM :

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.A.Nos.1855 to 1857 of 2018
and C.M.P.Nos.14916 to 14920 of 2019

1.The District Collector,
Perambalur District, Perambalur.
2.The Special Tahsildar,
(Adi Dravidar Welfare),
Ariyalur. ... Appellants in all cases
vs.
T.Balakrishnan ... Respondent in
W.A.No.1855 of 2018
G.Murugesan ... Respondent in
W.A.No.1856 of 2018
G.Bhoopathy ... Respondent in
W.A.No.1857 of 2018

Writ Appeal filed under Clause 15 of Letters Patent Act
against the order dated 05.01.2017 passed in W.P.Nos.4995 to
4997 of 2001.

Prayer in W.P.No.4995 of 2001:

Writ Petition No.4995 of 2001 filed under Article 226 of
the Constitution of India praying to issue a Writ of
Certiorarified Mandamus to call for the records of the first
respondent published in Perambalur District Gazette Special No.5
Page 2 dated 06.03.2000 and to quash the same in so far as the
petitioner's land measuring 13 cents in S.No.93/8A and 18 cents
in S.No.93/9 of Vanathirayanpattinam Village, Udayarpalayam
Taluk, Perambalur District and also directing the Respondents to
drop the proposed acquisition of the said lands for the purpose
of distributing the same as house site pattas to Adi Dravidas of
Vanathirayanpattinam Village, Perambalur District.

W.P.No.4996 of 2001:

Writ Petition No.4996 of 2001 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent published in Perambalur District Gazette Special No.5 Page 2 dated 06.03.2000 and to quash the same in so far as the petitioner's land measuring 17 cents in S.No.93/10; 45 cents in S.No.93/12; 27 cents in S.No.93/14 and the joint patta in S.No.93/13-A of Vanathirayanpattinam Village, Udayarpalayam Taluk, Perambalur District and also direct the Respondents to drop the proposed acquisition of the said lands for the purpose of distributing the same as house site pattas to Adi Dravidas of Vanathirayanpattinam Village, Perambalur District.

W.P.No.4997 of 2001:

Writ Petition No.4997 of 2001 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent published in Perambalur District Gazette Special No.5 Page 2 dated 06.03.2000 and to quash the same in so far as the petitioner's land measuring 22.5 cents in S.No.93/7 and 5 cents in S.No.93/8-B of Vanathirayanpattinam Village, Udayarpalayam Taluk, Perambalur District and also directing the Respondents to drop the proposed acquisition of the lands for the purpose of distributing the same as house site pattas to Adi Dravidas of Vanathirayanpattinam Village, Perambalur District.

For Appellants : Mr.V.Anandhamurthy
(in all Cases) Additional Government Pleader

For Respondent : Mr.R.N.Amarnath
(in all Cases)

COMMON JUDGMENT

(Judgment of this Court made by T.S.Sivagnanam,J.)

We have heard Mr.V.Anandhamurthy, learned Additional Government Pleader for the appellants and Mr.R.N.Amarnath, learned counsel for the respondent.

2.These appeals are directed against the common order passed in W.P.Nos.4995 to 4997 of 2001 filed by the respondent. The writ petitions were filed challenging the land acquisition proceedings under the provisions of the Harijan Welfare Schemes Act, 1978. The writ petitions were filed in the year 2001 and an interim order was granted in favour of the respondents/writ

petitioners. When the writ petitions came up for hearing on 27.03.2007, it appears that nothing survives in the writ petitions and recording the same, the writ petitions were dismissed by order dated 27.03.2007. Against which, the respondents/writ petitioners preferred review application in Review Application Nos.10 to 12 of 2008. The said review applications were allowed by a common order dated 04.02.2016 observing that the land acquisition proceedings have not been withdrawn and the same is still pending and it was further held that the learned counsel for the respondents/writ petitioners have also filed an affidavit dated 27.01.2006 stating that believing the representation made by the Government counsel, they had reported before the Court that nothing survives in the writ petitions. Accordingly, the order passed in the writ petitions stood recalled and the interim order granted in the writ petitions which was in force prior to the said date was directed to continue and the writ petitions were restored to the file of the Court.

3. The legal question which was considered by the learned Single Bench is whether the procedure required to be followed under the provisions of the Act as interpreted by the Hon'ble Division Bench in the case of R.Pari vs. The Special Tahsildar, Adi Dravidar Welfare, Devakottai (pasupom Muthuramalinga Thevar District) and another [(2006) 4 CTC 609] was followed or not. The learned Single Bench had directed the officers to be present in Court, namely, the Special Revenue Inspector, Adi Dravidar Welfare Office and the Special Tahsildar, Adi Dravidar Welfare (I/c), Udayarapalayam, Ariyalur District and the original files were produced. On perusal of the original files, the learned Single Bench found that the respondents/writ petitioners upon receipt of notice had filed their objections stating that they do not have any other lands and also pointed out that Government lands are available which could be allotted to Adi Dravidar. The Special Tahsildar vide communication dated 23.12.1999 rejected the objections raised by the respondents/writ petitioners and addressed the District Collector accordingly. This communication was not served on the respondents/writ petitioners, thereby they could not file further objections to the District Collector within the time stipulated. The question was whether the non-furnishing of the communication of the Special Tahsildar dated 23.12.1999 would automatically vitiate the proceedings. The answer to the question is no longer res integra as the writ petitioners have to prove the prejudice on account of non-furnishing of the communication and the same has to be decided considering the facts and circumstances of each case. The reason for rejection of the respondents/writ petitioners objections is only on one ground that they are big farmers. The learned Single Bench on considering the said communication of the Special Tahsildar dated 23.12.1999 and

after perusing the files found that there is absolutely no material available in the files to indicate as to how the Special Tahsildar came to the conclusion that the respondents/writ petitioners are big farmers. The communication dated 23.12.1999 has been extracted in paragraph 13 of the impugned order. On reading of the same, it is clear that there is no details given as to how the respondents/writ petitioners are big farmers. Therefore, the learned Writ Court concluded that serious prejudice has been caused to the respondents/writ petitioners on account of failure to furnish a copy of the report of the Special Tahsildar dated 23.12.1999.

4. We are of the considered view that the finding given by the learned Writ Court is perfectly in order and calls for no interference. The learned Writ Court while allowing the writ petitions granted liberty to the authorities to proceed afresh, if necessity to acquire, still subsists. The respondents/writ petitioners had the benefit of interim order from the date on which the writ petitions were filed. Subsequently, on account of a representation made by the Government counsel to the learned counsel for the writ petitioners, the writ petitions were dismissed as having become infructuous. Thereafter, review applications were filed duly supported by an affidavit by the then counsel for the writ petitioners. Considering all these facts, the review applications were allowed on 04.02.2016 and the interim order was restored. Therefore, in our considered view that in the interregnum even assuming that certain records have been created and patta has been issued, that will in no manner affect the rights of the respondents/writ petitioners.

5. For the reasons stated above, the appellants have not made out any case for interfering in the order passed in the writ petitions. Accordingly, the writ appeals stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS V)

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Sub Assistant Registrar

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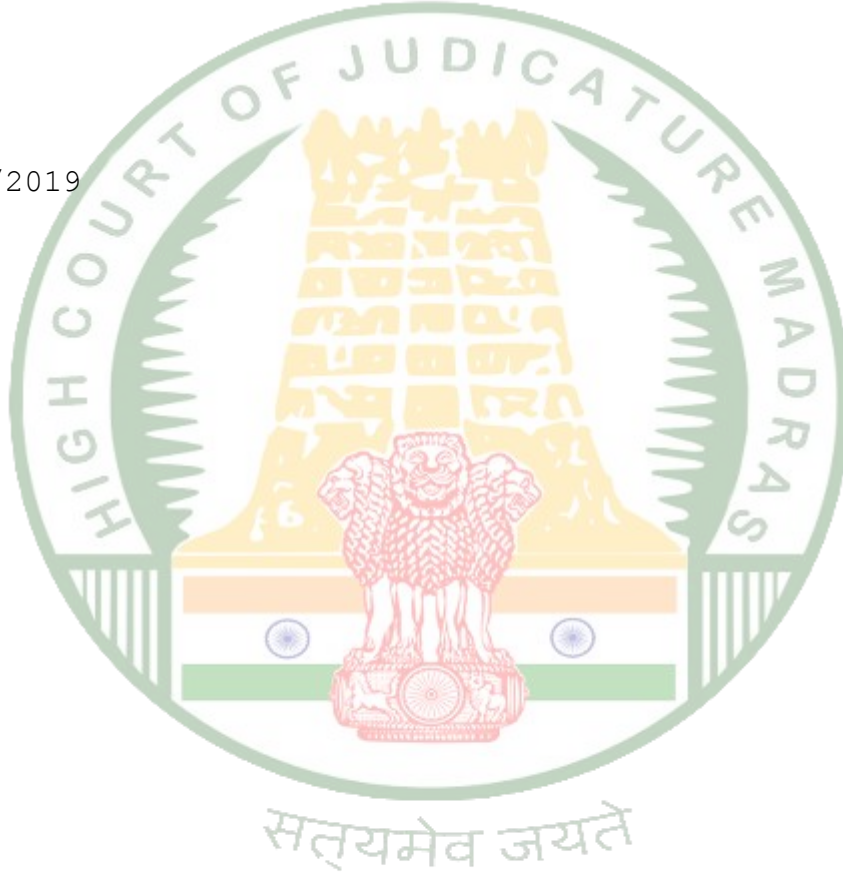
1. The District Collector
Perambalur District,
Perambalur.

2. The Special Tahsildar
(Adi Dravidar Welfare)
Ariyalur.

+3cc to Mr.R.N.Amarnath, Advocate Sr.15181,14755
+1cc to the Government pleader Sr.15606

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