



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD) No.934 of 2019
and
C.M.P. (MD) No.8407 of 2019
and
W.P. (MD) No.10429 of 2019
and
W.M.P. (MD) No.8016 of 2019

1.Panchavarnam

2.A.Natarajan

3.S.Rakku ... Appellants in W.A.(MD) No.934 of 2019 &
Petitioners in W.P.(MD) No.10429 of 2019

-vs-

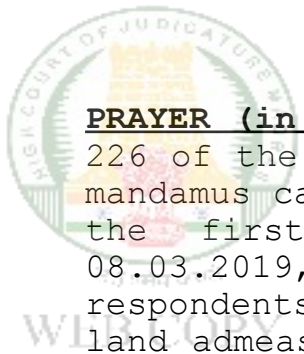
1.The District Adhi Dravida and
Scheduled Tribes Welfare Officer
Madurai

2.The District Collector
Madurai District
Madurai

3.The Special Tahsildar
Land Acquisition No.2
Harijan Welfare Scheme
Madurai-625 020

... Respondents in both
Writ Appeal & Writ Petition

PRAYER (in W.A. (MD) No.934 of 2019) : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 05.08.2019, passed in W.P.(MD) No.10429 of 2019, on the file of this Court, insofar as the observations in Paragraph Nos.13 & 14.



PRAYER (in W.P.(MD) No.10429 of 2019): Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records pertaining to the impugned order of the first respondent made in Na.Ka.No.150109/93/Adhi7 dated 08.03.2019, quash the same with further direction directing all the respondents to change the classification of the petitioners' punja land admeasuring 2 Acres and 50 cents, comprised in Survey No.58/3C and 58/3C2 situate at Aandar Kottaram, Madurai, from "Adhi Dravidar Natham" and restore the original classification prior to acquisition.

For Appellants : Mr.R.Sundar Srinivasan
(in W.A.(MD) No.934 of 2019)

&

For Petitioners
(in W.P.(MD) No.10429 of 2019)

For Respondents : Mr.S.Angappan
(in both W.A. & W.P) Government Advocate

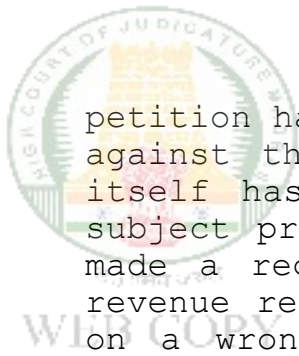
C O M M O N J U D G M E N T

[Judgment of the Court was made by T.S.SIVAGNANAM, J.]

The writ appeal is filed against the interim order, dated 05.08.2019, passed in W.P.(MD) No.10429 of 2019. Since the said writ petition is also pending before the learned Single Bench, by order dated 31.10.2019, we directed the writ petition to be tagged along with the writ appeal. Accordingly, the writ petition is also taken up for hearing along with this writ appeal both are being disposed of by this common Judgment.

2. The writ petition has been filed challenging the order, dated 08.03.2018, passed by the first respondent, by which the request made by the petitioners to restore the entries in the revenue records in their name as stood prior to the initiation of the acquisition proceedings, under Tamil Nadu Act 31 of 1978 for the purpose of providing free house site patta, has been rejected.

3. The petitioners along with four others had challenged the land acquisition proceedings by filing a writ petition in W.P.No.10720 of 1997 and when the writ petition was entertained, an order of interim stay was granted on 17.07.1997. Therefore, on and after the said date, nothing could have been done by the Authorities. Ultimately, the said writ petition was allowed by order dated 19.10.2004. In the said order, it was pointed out the procedure required to be followed under Section 4(2) of Tamil Nadu Act 31 of 1978 was not followed and therefore, the acquisition proceedings were vitiated. The order passed in the said writ

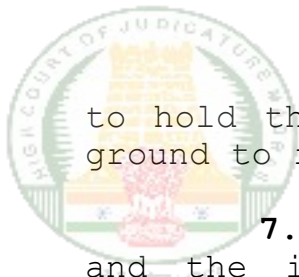


petition has become final. The respondents have not filed any appeal against the said order. Thus, when the acquisition notification itself has been quashed, the respondents have no right over the subject property. In the said factual background, the petitioners made a request to the Authorities to restore the entries in the revenue records in their name. This has been rejected by respondents on a wrong understanding as if the petitioners have sought for reconveyance of the subject land. This is a clear misreading of the representations submitted by the petitioners. If the respondents really require the subject land for public purpose, they could have very well initiated fresh proceedings, because the earlier land acquisition proceedings were quashed on technical grounds.

4. In the impugned order, only two reasons have been assigned to state that the request of the petitioners cannot be complied with. Firstly, it is stated that compensation for the subject land has been determined and Rs.85,641/- has been deposited before the Civil Court. Secondly, it is stated that the petitioners have approached the Authorities for change of revenue entries, after a lapse of 15 years. With these two reasons, the respondents have stated that the request for reconveyance of the subject land cannot be accepted.

5. To be noted that deposit of compensation amount before the Civil Court can be of no sequence, because, the acquisition proceedings itself have been quashed on 19.10.2004. If the Authority has deposited compensation amount, despite the order of interim stay granted by the Court, it is at their own risk and cost. The second aspect, which is put against the petitioners is the delay in approaching them for change of entries in the revenue records. This cannot be a ground to deny the rights of the petitioners to enjoy their property. Though right to property is not a fundamental right, but it is a statutory right and no person can be deprived of his property without following the procedure established by law. The attempt made by the respondents to acquire the subject land has ended in futility as the acquisition proceedings have been quashed. Therefore, merely because there is a delay in approaching them, the respondents could not have rejected the request of the petitioners for change of entries in the revenue records.

6. Further, the respondents would state that the area has been plotted out and list of beneficiaries have been drawn and Pattas have been issued. All these proceedings, if commenced prior to the initiation of acquisition proceedings or after the writ petition was filed in the year 1997, all at the risk of the Department. After the writ petition had been allowed, all consequential proceedings pursuant to the land acquisition notification are to be declared as null and void. Furthermore, because of the interim stay, the petitioners have been in possession and enjoyment of the subject property. This is also one more reason



to hold that the delay in approaching the Authorities cannot be a ground to reject the request of the petitioners.

7. For all the above reasons, the writ petition is allowed and the impugned order, dated 08.03.2019, passed by the first respondent is quashed and the respondents are directed to restore the entries in the revenue records as stood prior to the initiation of the acquisition proceedings. If the list of beneficiaries have already been drawn and orders have been passed for grant of Patta, it is well open to the respondents to identify some other property and allot free house site pattas to the needy beneficiaries.

8. In the light of the above orders allowing the writ petition and setting aside the order impugned therein, no separate order is required in the writ appeal. Accordingly, the writ appeal stands closed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

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To:

- 1.The District Adhi Dravida and Scheduled Tribes Welfare Officer,
Madurai.
- 2.The District Collector,
Madurai District, Madurai.
- 3.The Special Tahsildar,
Land Acquisition No.2,
Harijan Welfare Scheme,
Madurai-625 020.

+1 CC to M/s.SPL GP (SR-95442[F] dated 01/11/2019)

+2 CC to M/s.R.SUNDAR SRINIVASAN, Advocate (SR-95380 & 95381[F]
dated 01/11/2019)

W.A. (MD) No.934 of 2019 and
C.M.P. (MD) No.8407 of 2019 and
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31.10.2019