

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.03.2020

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.19941 of 2012

1.Rukku
2.Rajeswari
3.Govindammal

...Petitioners

-vs-

1.The State of Tamilnadu,
Rep.by its Secretary to Government,
Department of Backward Classes and
Most Backward Classes Welfare Dept,
Secretariat,
Chennai-9.

2.The District Collector,
Dharmapuri District,
Dharmapuri.

3.The Special Tahsildar,
Land Acquisition,
Dharmapuri.

4.K.Pachiyappan,
5.N.Viswanathan,
6.A.Madesh

...Respondents.

Prayer : Petition under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents 1 to 3 to initiate acquisition proceedings afresh to acquire the lands measuring an extent of 0.94.0 hectares of land comprised in S.F.No.591/5B and an extent of 0.51.0 hectares of lands comprised in S.F.No.592/1, Papparapatti Village, Penagaram Taluk, Dharmapuri District under the Act 1 of 1894 by considering the representation 05.02.2011.

For Petitioners : Mr.N.Manokaran

For Respondents : Mr.M.Elumalai GA For R1 to R3
: Mr.R.Ezhilarasan for R4 to R6

ORDER

Heard Mr.N.Manokaran, learned counsel appearing for the petitioners and Mr.M.Elumalai, learned Government Advocate appearing for respondents 1 to 3 and Mr.R.Ezhilarasan, learned counsel appearing for the respondents 4 to 6.

2. With the consent of learned counsel on either side, the writ petition itself is taken up for final disposal.

3. The petitioner has filed this writ petition praying for issuance of a writ of mandamus to direct the respondents 1 to 3 to initiate land acquisition proceedings afresh to acquire the lands measuring an extent of 0.94.0 hectares of lands comprised in S.F.No.591/5B and an extent of 0.51.0 hectares of lands comprised in S.F.No.592/1, Papparapatti Village, Penagaram Taluk, Dharmapuri District under the Act 1 of 1894 by considering the representation 05.02.2011.

4. The very initiation of the land acquisition proceedings, which were challenged by the private respondents, land owners in W.P.No.2515 of 1994, which was dismissed on 03.09.2001 on the technical ground that the proceedings have been initiated under the Land Acquisition Act, 1894 and not under the State Act 31 of 1995. Thereafter, the review application was filed to review the order in W.P.No.2515 of 1994, which was allowed and the writ petition was taken up for consideration afresh and by order dated 17.06.2002, the writ petition was allowed. The operative portion of the order reads as follows:

8. The manner in which the impugned proceedings have been conducted is also not correct. The authorities have entertained a letter from the local MLA dated 14.6.1993 (Mr.Purushothaman, MLA Pennagaram Constituency, Dharmapuri District), this letter is seen from the file produced by the respondent at page No.231. In the said letter, the said MLA has stated that the authorities should over-rule all or any of the objections that may be raised by the land owners. The contention of the learned Government Pleader that there is not reference to the said letter of the MLA in the report of the Tahsildar cannot be accepted. The very fact that the letter has been retained in the file would show that it should have weighed in his mind before dealing with the case. Apparently, it is kept only to justify his conclusion and order.

9. I am not inclined to accept the contention of the counsel for the petitioners that the beneficiaries were living in the rented houses and I am inclined to hold that it cannot be a ground for rejecting the request of allotment of house sites to them, if they are otherwise homeless persons. But I find that beneficiaries do not deserve allotment of house sites at the instance of

the Government. For instance Rajeswari, W/o. Thangavel is said to own a rice mill, Rukku, W/o. Munusany is issued to be a rice merchant and another patta has been issued in the name of her husband Munusamy; Pachiammal, W/o. Raju has a house in the name of her husband; Rajamanickam, a tailor has a terraced house. Likewise, Pachaimuthu, S/o. Periyannan and Madhesh, S/o. Appu have houses of their own. Ravi, S/o. Pandian runs a Soda factory and owns a house in the name of his father. Saroja, W/o. Raju owns a rice mill, Arumugaham, S/o. Sanjeevan owns patta land and house. Though the above particulars have been furnished by the petitioners as early as on 31.8.2002, no counter has been filed denying the said allegations. The said facts which are not denied should result in holding that the public purpose stated to justify acquisition, does not exist and the action for acquisition is a colourable and arbitrary exercise of power.

10. For all the above said reasons, the impugned proceedings cannot be sustained and are quashed, writ petition is allowed. No costs.

5. The official respondents preferred an appeal against the said order in WA.Sr.No.93330 of 2003 along with to condone the delay in filing the appeal petition. The Hon'ble Division Bench did not condone the delay and consequently the writ appeal was dismissed at the S.R. stage on 12.07.2004. Thus the order in W.P.No.2515 of 1994 dated 17.06.2002 has attained finality. The petitioner now seeks for initiating fresh land acquisition proceedings to acquire the very same lands.

6. Considering the facts as noted by this Court in W.P.No.2515 of 1994, the petitioner cannot seek for such relief. The Court cannot compel the Government especially in land acquisition proceedings that too in respect of a specific property, which was already been the subject matter of land acquisition. Earlier, the land acquisition proceedings to acquire the very same lands were quashed.

7. In the light of the above legal position as well as the earlier order passed in the earlier writ petition, which attained finality, the relief sought for in this writ petition cannot be granted.

8. In the result, the writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
The State of Tamilnadu,
Department of Backward Classes and
Most Backward Classes Welfare Dept,
Secretariat,
Chennai-9.
- 2.The District Collector,
Dharmapuri District,
Dharmapuri.
- 3.The Special Tahsildar,
Land Acquisition,
Dharmapuri.

+1cc to Mr.N.Manokaran, Advocate SR.No.20935

+1cc to Mr.D.Shivakumar, Advocate SR.No.21061

+1cc to Government Pleader SR.No.21664

W.P.No.19941 of 2012

AJS (CO)
GMY (03/11/2020)

सत्यमेव जयते

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