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In the High Court of Judicature at Madras

Dated : 02.3.2020

Coram

The Honourable Mr. Justice T.S. SIVAGNANAM

Writ Petition No. 7582 of 2012 &
MP. Nos. 2 and 3 of 2012

1. A. Sivaraman (deceased)
2. K. S. Premila
3. K. S. Vignesh
4. K. S. Gayathri

(Petitioners 2 to 4 were substituted as
legal heirs vide order dated 13.9.2019
in WMP. No. 26219 of 2019 by TRJ)

...Petitioners

Vs

1. The District Collector, Tiruvallur.
2. The Special Tahsildar, Adi Dravidar
Welfare, Tiruvallur.

...Respondents

PETITION under Article 226 of The Constitution of India
praying for issuance of a Writ of Certiorari to call for the
records relating to award No. 9/ 98-99 dated 09.3.1999 passed by
the second respondent and quash the same (prayer amended as per
order dated 13.9.2019 in M.P. No. 1 of 2013 by TRJ).

For Petitioners : Mr. B. S. Jhothiraman
For Respondents : Mr. M. Elumalai, GA

ORDER

I have heard Mr. B. S. Jhothiraman, learned counsel for the
petitioners and Mr. M. Elumalai, learned Government Advocate
appearing for the respondents.

2. Initially, the writ petition was filed praying to quash
the Notification issued by the first respondent dated 04.12.1998
under the provisions of the Tamil Nadu Acquisition of Lands for
Harijan Welfare Schemes Act (for brevity, the Act).
Subsequently, the prayer was amended vide order dated 13.9.2019
challenging the acquisition notification as well as award
No. 9/98-99 dated 09.3.1999.



3. The first ground on which, the impugned land acquisition proceedings were challenged, is by contending that in terms of Rule 3 of the Tamil Nadu Acquisition of Lands for Harijan Welfare Schemes Rules, 1979, the respondents are bound to serve notice in Form-1 on persons interested in the lands. Further, Section 4(2) of the Act mandates service of individual notice on the owners or other persons interested in the lands to be acquired.

4. It is submitted by the learned counsel for the petitioners that this mandatory procedure was not followed while issuing the impugned Notification. Identical grounds were raised by the neighboring land owners, whose lands were also sought to be acquired under the very same Notification by filing writ petitions before this Court in W.P.Nos.4319 and 4872 of 1999 [Krishnan Chandrasekaran & Others Vs. District Collector, Tiruvallur & another] and they were allowed by a common order dated 20.6.2007.

5. The petitioners' contention is that on and after orders passed by this Court in the said two writ petitions, the entire acquisition proceedings were abandoned. However, in the year 2012, the respondents attempted to dispossess the first petitioner and therefore, the first petitioner had no other option except to approach this Court and filed the present writ petition.

6. Per contra, in the counter affidavit, the second respondent raised a preliminary objection stating that the above writ petition is liable to be dismissed on the ground of delay and laches because the acquisition proceedings were of the year 1999 and that the same were challenged only in the year 2012.

7. However, the contention of the second respondent cannot be accepted for more than one reason. Firstly, if the acquisition proceedings have been quashed by this Court at the instance of other land owners, it means that the entire notification is quashed and it cannot be stated that the respondents will proceed against the first petitioner's lands alone despite the entire acquisition Notification having been quashed. The other reason is that after the common order was passed in those writ petitions dated 20.6.2007, the respondents appear to have not taken any steps though it is stated by the learned Government Advocate that proceedings were initiated under Section 12 of the Act. It is only when the respondents attempted to dispossess the first petitioner, a cause of action arose for the first petitioner to approach this Court and file the present writ petition. Therefore, on the aforementioned two grounds, the writ petition cannot be thrown out on the ground of delay and laches.



8. As mentioned above, if a Notification is quashed by this Court at the instance of any one of the land owners, it goes without saying that the entire Notification has been quashed and it cannot be revived in a piecemeal manner. In the counter filed, the second respondent would state that the scheme has not been dropped and that the scheme is still in force to be implemented.

9. If at all that has to be done, fresh acquisition proceedings should have been initiated within a reasonable time and that was also not done by the respondents. Further, from the counter, it is clear that the first petitioner's possession of the land in question has not been disputed by the respondents. For all the above reasons, the entire land acquisition proceedings initiated against the first petitioner's property deserve to be quashed.

10. In the result, the writ petition is allowed as prayed for. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-IV)

//True copy//

Sub Assistant Registrar

Rs

To

1.The District Collector, Tiruvallur.

2.The Special Tahsildar, Adi Dravidar Welfare, Tiruvallur.

+1cc to Mr.B.S.Jhothiraman, Advocate SR.No.18496

+1cc to Special Government Pleader SR.No.18720

WP.No.7582 of 2012 &
MP.Nos.2 and 3 of 2012

VG I(CO)
GMY(14/07/2020)