

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.19143 of 2020

Padmini

...Petitioner

vs.

1. The District Collector,
Ariyalur District,
Ariyalur.
2. The Thasildhar,
Udayarpalayam Taluk,
Jayankondam & Post,
Ariyalur District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the second respondent to consider the representation dated 25.09.2020 for the grant of Patta in favour of the petitioner relating to land is S.F.No 550/7 measuring an extent of 0.55.5 Ares of Sripuranthan (South) Village, Udayarpalayam Taluk, Ariyalur District.

For Petitioner : Mr.S.Kamadevan
For Respondents: Mr.G.Rajesh, GA

O R D E R

This writ petition has been filed for the issue of writ of mandamus directing the second respondent to consider the representation made by the petitioner on 25.09.2020, wherein the petitioner is seeking for grant of patta in her favour with respect to the subject property.

2.It is seen from records that the subject property was originally owned by the husband of the petitioner. This property along with larger extent of land became a subject matter of acquisition under the provisions of the Act 31/1978 in the year 2005. The acquisition proceedings came to be challenged before this Court in WP.No.23593 of 2007. This Court by an order dated 31.03.2015, was pleased to quash the acquisition proceedings. The relevant portions in the order are extracted hereunder:

"20. That apart, when the issue raised in the present writ petition is relating to non-application of mind of the District Collector, the District Collector, viz., the first respondent herein could have filed a brief reply indicating that he had applied his mind and arrived at full satisfaction to acquire the land in question. When the Collector is very much a party to the writ petition, for the reasons best known to him, he has not chosen to file his counter affidavit. Besides, when the petitioners have specifically alleged that no notice was issued and the District Collector has not conducted any enquiry in the manner contemplated under the Act, the District Collector viz., the first respondent herein is bound to file counter affidavit in answer to the contentions raised in the present writ petition. No doubt, the second respondent has filed counter, but, the counter affidavit of the authorised officer is not a substitute for the counter affidavit of the District Collector. As per the provisions of the Tamil Nadu Acquisition of Land for Harijan Scheme Act, 1978, the first and foremost function is only the District Collector and not even the Government. It is the subjective decision of the District Collector alone is material. Even if the Government comes to the conclusion to acquire the property, it cannot be said that it was a valid exercise of power. To narrate the the position, the District Collector has not filed his counter affidavit. It clearly shows that he has not applied his mind. Had he applied his mind as per section 4(1) and (2), he could have filed his counter affidavit. As he has not done so, the non-application of mind is writ large. Therefore, I am constrained to quash the impugned notification since, the District Collector had failed to apply his mind.

21. The counter affidavit filed by the second respondent also does not mention as to whether the land in question has been physically taken over from the petitioners. On the other hand, a patta issued on 15.3.2013 in respect of the lands of the petitioners clearly shows that the petitioners are in physical possession of the land. Therefore, this court has no hesitation to interfere with the impugned notification. Accordingly, the impugned proceedings are set aside and the writ petition stand allowed. No costs."

3.The petitioner thereafter had submitted a representation before the respondent on 25.09.2020 seeking for patta in her name. Since the same was not considered, the petitioner has preferred the present writ petition before this Court seeking for appropriate directions.

4.Heard Mr.S.Kamadevan, learned counsel for the petitioner and Mr.G.Rajesh, learned Government Advocate, appearing on behalf of the respondents.

5.The learned Government Advocate appearing on behalf of the respondents submitted that the second respondent has already fixed a date for enquiry on 24.12.2020 at 3.00 p.m. The learned counsel further submitted that the petitioner can be present at the time of enquiry along with all the relevant documents.

6.Taking into consideration the facts and circumstances of the case and also of the fact that this Court has already quashed the acquisition proceedings in WP.No.23593 of 2007 on 31.03.2015, there shall be a direction to the second respondent to conduct enquiry, by taking into consideration the order passed by this Court and pass final orders strictly in accordance with law, within a period of six weeks from the date of receipt of copy of this order.

7.This writ petition is disposed of with the above directions. No costs.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The District Collector,
Ariyalur District,
Ariyalur.

2. The Thasildhar,
Udayarpalayam Taluk,
Jayankondam & Post,
Ariyalur District.

+1 CC to Mr.S.Kamadevan, Advocate sr 41987.

W.P.No.19143 of 2020

BR(CO)
SP(05/02/2021)