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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.A.No.1604 of 2017
and
C.M.P.No.21005 of 2017

The Tamil Nadu State Housing Board,
by the Chairman, Nandanam,
Madras - 35.

... Appellant

Vs

1.V.C.Govindasamy Chettiyar
2.The Land Acquisition Officer,
and Special Tahsildar (L.A.),
Housing and Scheme Unit - I,
Coimbatore.

3.The Government of Tamil Nadu,
rep. by its Housing and Urban Development
Department, Fort St.George,
Chennai - 600 009.

...Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order made in W.P.No.19221 of 1994 dated 24.08.2001 on the file of this Court.

Prayer in W.P.No.19221 of 1994:

Writ Petition filed under Article 226 of the Constitution of India Praying for issuance of a Writ of Ceritorari calling for the records relating to GO.MS.NO.252 Housing and urban Development Department dated 19.05.1992 Published in the Tamil Nadu Government Gazettee on 20.05.1992 and quash the same in so far as they relate to the Petitioners Lands in S.no. 79/2 in vellaikinar Village Coimbatore Taluk Having an extent of 0.18.5 Hectores are concerned.

For Appellant : Dr.R.Gouri

For Respondents : Mr.V.Anandhamoorthy, A.G.P.,



J U D G M E N T

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

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The appeal has been filed by the Housing Board challenging the Single Judge order quashing the notification under Section 4 (1) of the Act on the ground of defective publication of notification under Section 4 (1) of the Act and declaration under Section 6 of the Act.

2. When the learned Single Judge rightly relied upon the Judgment of "Arumugha Mudaliar Vs. The State of Tamil Nadu and another" reported in "(2002) 1 MLJ 459" and found that there was defective publication viz., Non-publication of notification under Section 4 (1) and declaration under Section 6 in widely circulated newspaper in that area, the appeal is liable to be dismissed.

3. Further, the law regarding publication of Section 4(1) notification in newspapers has been settled by the Hon'ble Supreme Court in the decision reported in (2011) 1 Supreme Court Cases 330, Special Deputy Collector, Land Acquisition CMDA v. J.Sivaprakasam and Others, wherein it has been held that failure to publish in two daily newspapers which have no wide circulation in that locality make the notification under Section 4(1) of the Act and the consequential acquisition proceedings vitiated. Paragraph 27 of the said judgment is usefully extracted hereunder:-

"27. If there is failure to publish in two daily newspapers or if the publication is in two newspapers that have no circulation at all in the locality, without anything more, the notification under Section 4(1) of the Act and the consequential acquisition proceedings will be vitiated, on the ground of non-compliance with an essential condition of Section 4 (1) of the Act."

4. In view of the same, the appeal is dismissed as abated. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1.The State of Tamil Nadu,
rep.by Secretary,
Housing and Urban Development Department,
Fort St.George, Chennai - 600 009.

2.The Special Tahsildar, (LA),
(Land Acquisition) officer,
Housing Scheme Unit - I,
Coimbatore.

+1cc to M/s.R.Gowri , Advocate SR.No. 8503
+1 cc to Government Pleader Sr.No. 9059

W.A.No.1604 of 2017
and
C.M.P.No.21005 of 2017

A.SK(05/03/2020)