



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2021

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.A.Nos.2410 & 2411 of 2013

1.The State of Tamilnadu
rep. by its Secretary to Govt.
Adidraavidar & Tribal Welfare Department,
F.S.G.Madras-9.

2.The District Collector,
Tiruvallur District,
Thiruvallur.

3.The Special Tahsildar,
Adi Dravidar Welfare,
Tiruttani, Tiruvallur District

.. Appellants/Respondents in
W.A.Nos.2410 & 2411 of 2013

-vs-

1.Baskaran

...1st Respondent/Petitioner in
W.A.Nos.2410 & 2411 of 2013

2.Usha

...2nd respondent in
W.A.No.2410 of 2013

Common Prayer: Writ appeals filed under Clause 15 of the Letters Patent praying to allow the Writ Appeals by setting aside the Common Order of the learned Single Judge made in W.P.Nos.7185 of 2001 and 22949 of 2009 dated 23.12.2011.

Prayer in W.P.No.7185 of 2001 : Writ Petition is filed under Article 226 of Constitution of India, praying to issue a writ of mandamus, to direct the respondent to re-allot the land in survey No.184/5-1 and 185 measuring about 0.09.5 hectares which was earlier acquired from the petitioner for the provision of allotting housing sites to irregulars of Kalambakkam chinnamalai villages under Section 4(1) of the Tamil Nadu Acquisition of land for Adi Dravidar, vide G.O.No.RC.J1/2746/1997, dated 17.12.1998, in the petitioners name itself.



PRAYER in W.P.No.22949 of 2009: Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the second respondent relating to Section 4(1) notification of Tamilnadu Acquisition of Land for Adi Dravidar Welfare Scheme Act, 1978 in G.O.No.Rc.J1/2946/1997, dated 17.12.1998 and published Thiruvallur District Gazette extraordinary No.17, dated 17.12.1998 at page No.2 and 3 insofar as it relates to the petitioners land comprised in survey No.185-5B in Kalambakkam village, Tiruttani Taluk, Thiruvallur District and quash the same.

For Appellant
in both Appeals : Mr.T.Arunkumar
Govt. Advocate

For R1
in both Appeals : Mr.V.Ayyadurai
Senior Counsel

For R2 in
W.A.No.2411 of 2013 : Mr.Annatharaj

COMMON JUDGMENT

(Judgment of the Court was pronounced by T.RAJA.J)

These Writ Appeals have been directed against the impugned Common Order dated 23.12.2011 passed in W.P.Nos.7185 of 2001 and 22949 of 2009 in and by which the learned Single Judge, finding fault with the Special Tahsildar and the District Collector in not properly providing fair and reasonable opportunity to the land owners, the respondents herein, allowed those writ petitions, thereby quashing the acquisition proceedings initiated under 4(1) Notification dated 17.12.1998 holding clearly that the acquisition proceedings are vitiated on the ground of failure to issue notice to the land owners which is in violation of the principles of natural justice.

2. Learned Senior Counsel appearing for the 1st respondent in both the appeals taking us through the pleadings pointed out that in one such place, it has been mentioned that some of the land owners are eking out their livelihood by making mud pots and also cultivating their lands and as such, when the land owners have been leading their lives from the agricultural products received from their lands, the Special Tahsildar, Adi Dravidar Welfare Department and the Land Acquisition Officer ought to have seen properly that notice of enquiry has been issued giving them a fair and reasonable opportunity to the land owners to give their explanation as to why the lands-in-question should not be acquired. When the appellants said to have issued

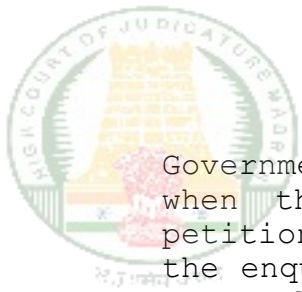


Form-I Notice as per Rule 3(i) of the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Rules 1979, on the respondents, the claim of the respondents before the learned Single Judge was that they came to know about the acquisition proceedings only after the notification was published in the District Gazette which was during March, 1999. Thereafter, they submitted a representation enclosing certain documents making it clear that they have not given reasonable opportunity. Therefore, the learned Single Judge while going into this crucial aspect held that there was no any record to show that Form-I notice was sent in Registered Post since it was stated that there was no such notice received by the land owners in respect of their lands and other interested persons. Therefore, in the absence of any document to establish that the respondents were served with a notice, the learned Single Judge held that the respondents did not have any notice of the proceedings.

3. Learned Senior Counsel for the 1st respondent in both the appeals further pleaded that in the report of the Special Tahsildar, dated 29.06.1996, it has been stated that the respondents have presented an objection for acquisition of their lands, but a copy of the representation said to have been given by the respondents did not find place in the file. Therefore, the learned Single Judge has come to the conclusion that the ground taken by the appellants that the land owners have participated in the enquiry and they gave a representation are far from acceptance for the simple reason that in the absence of any document to establish that the respondents-writ petitioners were served with Form-I Notice in the manner contemplated under Rule 3(i), it has to be presumed that they were not given any notice. Therefore, the acquisition proceedings should be held as vitiated.

4. Under such circumstances, the argument today advanced before us by the learned Government Advocate appearing for the appellants calling for interference with the impugned common order passed by the learned Single Judge has not appealed to us. The reason being that when the respondents belong to Most Backward Class and eking out their livelihood by making mud pots and also cultivating their lands-in-question at Kalambakkam Village, Tiruttani Taluk, Thiruvallur District, the initiatives made by the appellants to acquire the lands-in-question for the benefit of constructing Housing Sites to Irular Community people of Kalambakkam and Chinnamandali Village, without following the procedure contemplated under Rule 3 of the Act by adhering to the issuance of notice served on the land owners, it has to be held that the respondents were not given any notice and opportunity as required to be done under the said Act and Rules. Therefore, the learned Single Judge after going into the matter in detail has held that the writ petitioners were not given any notice and opportunity as required to be done under the Act.

5. One of the arguments advanced by the learned



Government Advocate appearing for the appellants herein is that when the representation dated 10.11.1995 given by the writ petitioners/respondents herein was found while taking part in the enquiry, the learned Single Judge ought to have accepted the case of the appellants that the respondents were given proper notice as contemplated under Rule 3 of the Act. The said objection cannot be taken on record for the simple reason that when the appellants claimed before us that the respondents/writ petitioners were served with notice, the learned Single Judge has rightly held that a copy of the postal acknowledgment card for having sent the registered letter to the writ petitioners/respondents is not found. Therefore, the penultimate conclusion reached by the learned Single Judge that Form-I notice as contemplated under Rule 3(i) of the Act has not been served clearly indicates that there was no fair and reasonable opportunity given has to be confirmed. Further, giving representation by the land owners not to acquire their lands cannot amount to compliance of the conditions mentioned in Form-I notice as contemplated under Rule 3(i) of the Act by the appellants. In view of all the above, we are not impressed by anyone of the grounds taken by the appellants herein in these Writ Appeals.

6. In the result, both the Writ Appeals fail and the same are accordingly dismissed. No costs.

Sd/-

Assistant Registrar(CS-II)

//True copy//

Sub Assistant Registrar

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To

1.The Secretary,Secretary to Govt.
Adidravidar & Tribal Welfare Department,
F.S.G.Madras-9.

2.The District Collector,
Tiruvallur District,
Thiruvallur.

3.The Special Tahsildar,
Adi Dravidar Welfare,
Tiruttani, Tiruvallur District

+lcc to Mr.V.B.Perumal Raj, Advocate SR.No.31051
+lcc to Government Pleader SR.No.31427

W.A.Nos.2410 & 2411 of 2013

VBM(CO)

GMV(20/07/2021)