



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2021

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.12973 and 12974 of 2013
and
M.P.Nos.2 and 2 of 2013

C.Thiruthambi ...Petitioner in W.P.No.12973 of 2013

1. C.Ramasamy (Deceased)

2. C.Thiruthambi ...Petitioner in W.P.No.12974 of 2013
(2nd petitioner substituted
in the place of deceased
sole petitioner vide
order dated 05.10.2021 made in
W.M.P.No.22332 of 2021 in
W.P.No.12974 of 2013 by GKIJ)

Vs.

1.The District Collector,
Namakkal District,
Namakkal.

2.The Revenue Divisional Officer,
Tiruchengode.

3.The Tahsildar,
Tiruchengode.

4.The Special Tahsildar,
Adi Dravider Welfare,
Namakkal.

...Respondents in both W.Ps.

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari, calling for the records of the 1st Respondent pertaining to his Proceedings in R.O.C.No.34471/2012/D-2) dated 20.03.2013, published in the Namakkal District Gazette on 03.04.2013 and quash the same.

For Petitioner
in both W.Ps

: Mr.P.Valliappan

For Respondents
in both W.Ps

: Mr.M.R.Gokul Krishnan
Govt. Advocate



COMMON ORDER

Both the Writ Petitions have been filed to issue a writ of Certiorari, calling for the records of the 1st Respondent pertaining to his Proceedings in R.O.C.No.34471/2012/D-2) dated 20.03.2013, published in the Namakkal District Gazette on 03.04.2013 and quash the same.

2. The case of the petitioners is that the property comprised in S.No.58/2B ad-measuring 2.79 acres situated at Kaliyanur Amani Village, Tiruchengode Taluk is owned by the petitioners. However, without their knowledge, the said property was converted into Arunthathiar Colony. According to the petitioners, no notice was served on them and the lands were acquired under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 31 of 1978, and award has been passed on 20.03.1981. Later, the said Act was struck down by this Court. It was challenged before the Hon'ble Supreme Court of India and the Hon'ble Supreme Court of India upheld the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978. (hereinafter referred to as 'the Act') Subsequently, the petitioners have also filed a suit in O.S.No.2 of 1999 on the file of the Additional District Munsif Court, Tiruchengode for declaration of title and for permanent injunction. It was decreed in respect of declaration prayer alone and dismissed with regard to permanent injunction. It was challenged by the petitioner's father and Ramasamy by filing an appeal suit in A.S.No.38 of 2011 and the same was also dismissed by judgment and decree dated 09.07.2012. While that being so, the 4th respondent herein issued Form 1 under Rule 3(i) of the Act and Section (ii) of the Act calling upon the petitioners to give their objections. Therefore, the petitioners gave their objections dated 11.02.2013 stating that the said land in question is the petitioners only source of livelihood. In fact, the Land Acquisition proceedings dropped in the year 1994, after a period of so many years, the present notification was issued under 4(1) of the said Act to the effect that the Government has decided to acquire the aforesaid lands.

3. The learned counsel for the petitioner contended that the 1st respondent failed to record the satisfaction as mandated under Section 4(1) of the Act and the satisfaction of the Government is not contemplated under the said Act. In support of his contentions, he relied upon the judgments of this Court in which it has been held as follows:-

1.State of Tamil Nadu and others v. Ananthi Ammal and others reported in AIR 1995 SC 2114.

2.G.Ramakrishna Naidu (deceased) and 2 others v. The District Collector, North Arcot Ambedkar District, Vellore,



North Arcot District and another reported in 2001 (3) CTC 649.

3.K.V.Purushothma Naidu v. The District Collector, North Arcot Ambedkar District, Vellore and another reported in 2004(3) CTC 261.

4.Jainabi v. The State of Tamil Nadu reported in 2006 (5) CTC 163.

5.R.Pari v. The Special Tahsildar, Adi Dravidar Welfare, Devakkottai reported in 2006 (4) CTC 609.

6.M.Nagu and others v. The District Collector, Sivagangai District. 2. The Special Tahsildar (ADW), Sivagangai reported in 2008 (2) CTC 468.

7.Rajammal and others v. 1.The District Collector, Dharmapuri, 2.The Additional Special Tahsildar (Adi Dravidar Welfare), Harur, Dharmapuri District reported in 2008 (5) CTC 154.

8.S.Palanisamy, 2.Rajagopal, 3S.Prakasam v. The District Collector, Coimbatore District, Coimbatore, 2.The Special Tahsildar, Adi Dravidar Welfare, Pollachi, Coimbatore District reported in 2012 (1) CWC 814.

9.Rajangam v. The District Collector, Nagapattinam, 2.The Revenue Divisional Officer, Mayiladuthurai, 3.The Special Tahildar (Adi Dravidar Welfare) cum Land Acquisition Officer, Sirkali, Nagapattinam District reported in 2013 (1) CWC 636.

4. On perusal of the counter affidavit filed by the 1st respondent, it reveals that the Special Tahsildar, Tiruchengode had acquired the land ad-measuring to an extent of 1.23 acres comprised in S.No.58/2B1 situated at Kaliyanur Village, Tiruchengode Taluk, Namakkal District under the provisions of the Act to provide free house sites to the Arunthathiars of Kaliyanur Village. Subsequently, after passing the award in Award No.4/1980-81 dated 20.03.1981, the compensation amount had been deposited to the Sub-Treasury, Tiruchengode, since the petitioner refused to accept the award, the acquired lands were classified as ''Arunthathiyars Natham'' in the revenue records. However, the people of Arunthathiyar Community encroached the subject lands and constructed huts and houses without issuance of any free house site pattas and living there.

5. Admittedly, the persons who encroached the said subject property are living there for the past 30 years. Therefore, the ground raised by the petitioner cannot be considered, since all the properties were now occupied by the Arunthathiyars and they were not issued any free house site pattas. Therefore, no purpose would be served if 4(1) notification is quashed by this Court. Therefore, this Court deems it fit to direct the 1st respondent to consider the petitioner's request for allotment of an alternate property.



6. Accordingly, the petitioners are directed to submit their representation to the 1st respondent within a period of two weeks from the date of receipt of a copy of this order for allotment of alternate lands for their livelihood. On receipt of the same, the 1st respondent is directed to pass orders on merits and in accordance with law within a period of six weeks thereafter.

7. With the above direction, both the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

ssn
To

1.The District Collector,
Namakkal District,
Namakkal.

2.The Revenue Divisional Officer,
Tiruchengode.

3.The Tahsildar,
Tiruchengode.

4.The Special Tahsildar,
Adi Dravider Welfare,
Namakkal.

+2 Ccs Mr.P.Valliappan, Advocate sr 52369
+1 CC to The Government Pleader sr 52797.

W.P.Nos.12973 and 12974 of 2013
and
M.P.Nos.2 and 2 of 2013

NK (CO)
SP (10/11/2021)