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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P. No.18646 of 2011

and

M.P.No.2 of 2011

Marie Camala Ryan

...Petitioner

Vs

1. The Additional Secretary,
Revenue Land Acquisition,
Secretariat,
Government of Puducherry,
Puducherry.

2. The Deputy Collector,
Revenue & Land Acquisition Officer,
Office of the District Collector,
Karaikal - 609 602.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the proceedings of the respondent made in G.O.Ms.No.62 dated 23.07.2007 issued under Section 4(1), followed by the further notification issued under G.O.Ms.No.8 dated 03.03.2009, issued under Section 6 and quash the said proceedings dated 23.07.2007 and 03.03.2009.

For Petitioner : Mr.A.Jenasenan

For Respondents : Mrs.V.Usha

Additional Govt. Pleader
(Pondicherry)

O R D E R

This Writ Petition has been filed to issue a Writ of Certiorari, calling for the proceedings of the respondent made in G.O.Ms.No.62, dated 23.07.2007 issued under Section 4(1) followed by the further notification issued under G.O.Ms.No.8, dated 03.03.2009, issued under Section 6 and quash the same.

2. The petitioner owned the property ad-measuring 3 hectares 30 ares 30 cents comprised in R.S.Nos.258/4 and 260 at

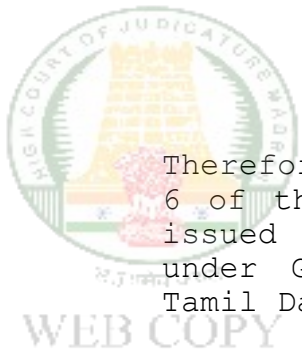


Thirunallur Commune, Karaikal. The petitioner also obtained approval to construct the restaurant-cum-lodge. It was rejected by the Member Secretary on the ground that the land in question is earmarked as Thirunallur Temple Town Development Plan proposed by HUDCO. However, the second respondent issued notification under Section 4(1) of the Land Acquisition Act proposing to acquire the land comprised in both the survey numbers for the purpose of development of Thirunallur Temple Town and it was published in 'Daily Thanthi' on 23.07.2007. Though the petitioner submitted her objections on 15.08.2007, she was not called upon for any personal hearing under Section 5 of the Land Acquisition Act. Thereafter, the notification under Section 6 was published by the second respondent on 03.03.2009 declaring that the land is required for the said purpose. After publication of the notification, no declaration shall be made after the expiry of one year from the notification under Section 4(1) of the Land Acquisition Act.

3. The petitioner also averred that the land in question is also classified as 'Agricultural Vacant Land for future Development'. Therefore, the only ground raised by the petitioner is that the notification under Section 4(1) of the Land Acquisition Act issued by the respondent proposing to acquire the land under G.O.Ms.No.62, dated 23.07.2007, which was published in the Tamil Daily i.e., Dhina Thanthi on 26.07.2007. As per the Section 6(1) proviso II, no declaration in respect of a land covered by a notification under Section 4 (1) shall be made after the expiry of one year from the date of publication of the notification.

4. The respondents filed a counter stating that
"4. Since, it is clearly contemplated in the Act that the person interested in the land is entitled to be heard and it is a mandatory to give an opportunity of hearing the landowners/interested, most of the landowners have been acquired and which consumed lot of time and caused a span of more than one year from the date of 4(1) notification to make a declaration under Section 6 of the Land Acquisition Act. It cannot be contended that even if there was delay. Whereas, the delay has to be viewed in the over all context from the initiation of the proceedings and not from the narrow terminus merely of the date of Section 6 notification.

5. I submit that the pragmatic fact is that there were numerous hectares of land belonging to numbers of person who were enjoying vested interest in the subject matter of acquisition. Hence, the delay in making declaration was not any inordinate delay".



Therefore, there was a delay for declaration made under Section 6 of the Land Acquisition Act. Section 4(1) notification was issued by the second respondent proposed to acquire the land under G.O.Ms.No.62, dated 23.07.2007, which was published in Tamil Daily i.e., Dhina Thanthi on 26.07.2007

5. As rightly pointed out by the learned counsel for the petitioner, as per Section 6(1) proviso II, no declaration in respect of a land covered by a notification under Section 4 (1) of the Land Acquisition Act shall be made after expiry of one year from the date of publication of the said notification. The notification under Section 6 of the Act by the respondent in G.O.Ms.No.8, dated 03.03.2009, was published in the Daily Paper i.e., 'Dhina Thanthi' on 02.07.2009. Since, the notification under Section 4(1) had been published in newspaper on 26.07.2007, declaration under Section 6 has to be issued on or before 25.07.2008. Therefore, it is clear that the declaration under Section 6 was issued beyond the period of one year as per the provision contained under Section 6 of the Act. Therefore, the acquisition proceedings is liable to be quashed on the sole ground alone.

6. In view of the above, the proceedings of the respondent made in G.O.Ms.No.62 dated 23.07.2007 issued under Section 4(1), followed by the further notification issued under G.O.Ms.No.8 dated 03.03.2009 issued under Section 6, is hereby set aside and accordingly, the Writ Petition stands allowed. Consequently, connected Miscellaneous Petition is closed. No order as to costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Lpp

To

1. The Additional Secretary,
Revenue Land Acquisition,
Secretariat,
Government of Puducherry,
Puducherry.



2. The Deputy Collector,
Revenue & Land Acquisition Officer,
Office of the District Collector,
Karaikal - 609 602.

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+2CCs to Mr.A.Jenasenan, Advocate, Sr.No.38275
+1CC to Government Pleader, Sr.No.38951

W.P. No.18646 of 2011
and
M.P.No.2 of 2011

GPL (CO)
K.RK. (22.09.2021)