



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NOS.1081 OF 2010 AND 28271 OF OF 2018

AND

M.P.NO.1 OF 2010 AND W.M.P.NOS.32966 AND 32967 OF 2018

W.P.No.1081 of 2010

Rukmani Soundararajan

... Petitioner

Vs

1. The Secretary to Government,
Government of Tamil Nadu,
Department of Backward Classes & Most
Backward Classless Y Minorities Welfare (BC II)
Fort St.George, Chennai - 600 009.
2. The Special Tahsildar,
Adi-Dravidar Welfare,
Dharmapuri

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent in Letter No.7415/BC2 (1) 2009-3 dated 23.12.2009 and to quash the same and direct the first respondent to withdraw the acquisition proceedings in respect of 1.90.5 hectares of land in S.No.578 and another extent of 2.00.5 hectares of land in S.No.579 of Vellegoundanpalayam Village, Dharmapuri Taluk and District on the ground of fraud, contempt of Court committed on the part of the 2nd respondent and malafide on the part of the respondents.

W.P.No.28271 of 2018

1. Chamundeswari Sekar
2. Gowripriya
3. Subashree
4. V.Lakshmi Narasimhan
5. V.Kalyan

... Petitioners



Vs

1. The District Collector,
Dharmapuri District,
Dharmapuri.

2. The Special Tahsildar,
Adi-Dravidar Welfare,
Dharmapuri.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent in Letter Na.Ka.No.424/2003 (Aa) dated 23.08.2018 and to quash the same and direct the respondents either re-conveyance of acquired property or to pay fair compensation on the Land Acquisition of the petition property to the total extent of 03.91.0 hectares comprised in Survey Nos.578 & 579 by calculating as per the present market value and by computing as per Section 26 and Section 30(2) of the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act, 2013.

For Petitioner in
W.P.No.1081 of 2010 : Mr.Sasnkara Subramaniam
for Mr.S.Balaji

For Petitioners in
W.P.No.28271 of 2018 : No Appearance

For Respondents in
in both W.Ps : Mr.A.Selvendran
Government Advocate

COMMON ORDER

W.P.No.1081 of 2010 is filed to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent in Letter No.7415/BC2 (1) 2009-3 dated 23.12.2009 and to quash the same and direct the first respondent to withdraw the acquisition proceedings in respect of 1.90.5 hectares of land in S.No.578 and another extent of 2.00.5 hectares of land in S.No.579 of Vellegoundanpalayam Village, Dharmapuri Taluk and District on the ground of fraud, contempt of Court committed on the part of the 2nd respondent and mala-fide on the part of the respondents.



2. W.P.No.28271 of 2018 is filed to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent in Letter Na.Ka.No.424/2003 (Aa) dated 23.08.2018 and to quash the same and direct the respondents either to re-convey the acquired property or to pay fair compensation on the Land Acquisition of the petition property to the total extent of 03.91.0 hectares comprised in Survey Nos.578 & 579 by calculating as per the present market value and by computing as per Sections 26 and 30(2) of the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act, 2013.

3. The property comprised in S.No.578 ad-measuring an extent of 1.90.5 hectares and in S.No.579 ad-measuring an extent of 2.05.5 hectares, in total an extent of 3.91.0 hectares, situated at Vellegoundanpalayam Village, Dharmapuri Taluk and District, are owned by K.R.Narasimmachari and his sons, viz., K.N.Vasudevan and K.N.Soundararajan. They were issued with patta in Patta No.1337 dated 25.12.1984 and during the UDR survey, the Inspector of Survey wrongly issued patta for the said land in the name of one Lakshmi @ Rajalakshmi on 19.01.1985 without cancelling the patta issued in favour of them. While that being so, the said land was acquired by the Government of Tamil Nadu for BC and MBC Welfare Department, vide land acquisition order No.3/gpe/96-97, dated 31.03.1997 under Section 4(1) notification of the Land Acquisition Act (hereinafter referred to as 'the Act', for short) dated 08.07.1994. The compensation amount has been found to have been allotted to the said Lakshmi @ Rajalakshmi, whose name was wrongly allotted in UDR. The acquisition proceedings were challenged by the said K.N.Vasudevan and K.N.Soundararajan in W.P.No.15121 of 1995 before this Court on the ground that they were not served with any notice and they were called upon for any enquiry. The said Writ Petition, by order dated 25.07.2001, this Court observed that the preliminary decree was passed and this Court has also confirmed the same in the First Appeal. In other words, a Civil decree is in favour of the petitioners, decreeing certain shares to them. If that be so, while passing an award, the land acquisition officer shall consider the claims of the petitioners with respect to apportionment of compensation or for claiming higher compensation. It was further observed that the Land Acquisition Officer shall issue notice to all concerned, including the petitioners herein, if the award had not already been passed, after affording necessary opportunity of hearing. Observing so, W.P.No.15121 of 1995 was disposed of on 25.07.2001. Aggrieved by the same, the said K.N.Soundararajan husband of the petitioner in W.P.No.1081 of 2010, filed a Writ Appeal in W.A.No.787 of 2002.



4. While pending the said Writ Appeal, the said K.N.Soundararajan died and the petitioner in W.P.No.1081 of 2010, her daughter and son came to be impleaded in the Writ Appeal. By Judgment dated 08.12.2008, the Hon'ble Division Bench of this Court dismissed the Writ Appeal and confirmed the order passed by the learned Single Judge in W.P.No.15121 of 1995. Thereafter, the petitioners in said Writ Petition submitted their representation on 21.08.2009 before the first respondent under Section 48 of the Act for withdrawal of the land acquisition proceedings in respect of the land. It was rejected by the first respondent reasoning that the purpose for which the lands were acquired was for providing house sites to the Vanniars of Dharmapuri Town, as they are living in great congestion. The interest for the general public cannot be defeated and the interest of the general public prevails over the interest of an individual, when the claim made by the individual is in absentia of proof. After dismissal of the Writ Appeal, the District Collector, Dharmapuri had taken possession of the property and issued patta to the beneficiaries.

5. Insofar as the petitioners in W.P.No.28271 of 2018 are concerned, the legal heirs of the said K.N.Vasudevan had submitted their representation on 24.06.2015, requesting re-conveyance of the subject lands to them for the reason that the very purpose of acquisition was not solved. However, their representation was not considered and as such, they filed a Writ Petition before this Court in W.P.No.1603 of 2016 and by order dated 19.01.2016, this Court passed the order holding that pattas have already been issued in favour of certain private parties and they have not been impleaded as respondents before this Court and as long as those pattas have not been cancelled, the question of re-conveyance does not arise. Therefore, if the petitioners seek to cancel the pattas granted to ineligible people, then the representation should have been differently worded and the prayer sought for in that Writ Petition was not feasible for consideration at this stage of the matter. However, the petitioners were given liberty to send a fresh representation. Accordingly, they submitted their representation on 17.12.2016 before the Tahsildar, Dharmapuri and they also filed a Writ Petition in W.P.No.3080 of 2017 for re-conveyance of the subject land(s). This Court by order dated 22.03.2017 directed the petitioners to submit fresh representation and directed the respondents therein to consider the same. Thereafter, such representation was rejected by the order impugned dated 23.08.2018 in W.P.No.28271 of 2018.

6. The learned counsel for the petitioners raised the ground that the respondents failed to follow the directions issued by this Court in W.P.No.15121 of 1995. This Court specifically directed the Acquisition Officer to issue notice to the



petitioners before passing an award.

7. On a perusal of the order passed in W.P.No.15121 of 1995 as stated supra, it is seen that this Court specifically directed the respondents therein to issue notice, if the award had not already been passed and also to afford necessary opportunity. After proposal under Section 6 of the Act was submitted to the Government, the same was also approved by the Government in G.O. (3D) No.51, Backward Classes and Most Backward Classes Department, dated 11.08.1985. It was published in the Tamil Nadu Government Gazette Part II-Section 2, dated 14.08.1985. The declaration under Section 7 of the Act was approved by the District Collector, Dharmapuri, by proceedings in Roc.No.43219/1993 (Y), dated 08.11.1995. The notices under Sections 9(1), 9(3) and 10 of the Act, dated 11.09.1996 were issued to the land owners fixing the date for their objections on 30.09.1996. Thereafter, the award was passed in Award No.3/BC/1996-97, dated 26.03.1997. It was approved by the District Revenue Officer on 29.03.1997. Since the award amount was not received by the land owners, the compensation amount was deposited in the Subordinate Court, Dharmapuri on 19.05.2000. Therefore, the award was passed on 26.03.1997, much earlier to the order dated 25.07.2001 passed by this Court in W.P.No.15121 of 1995. In fact, aggrieved by the same, the Writ Appeal was filed in W.A.No.787 of 2002. The Hon'ble Division Bench of this Court dismissed the above Writ Appeal by judgment dated 08.12.2008 observing as follows:-

"12. It is seen that the purpose for which the lands were acquired was for providing house sites to the vanniars of Dharmapuri Town as they are living in great congestion. In other words, the initiation of the Land Acquisition proceedings by the respondent is for the benefit of the general public. The interest of the general public cannot be defeated for the interest of an individual, when the claim made by the individual is in absentia of proof. In several of its decisions, the Supreme Court has held that the concept of public purpose should include matters, such as, safety, security, health, welfare and prosperity of the community or public at large. Public purpose will include a person in which the general interest of community as opposed to the interest of an individual is directly or indirectly involved. Therefore, the individual interest must give way to public interest as far as public interest in respect of acquisition of land is concerned."

8. Thus, it is clear that the interest of the individual should give way to the public interest. Further, the District



Collector, Dharmapuri has reported that 252 beneficiaries were granted pattas in the acquired lands and the allottees have acquired rights of ownership in the eyes of law and as such, the request of the withdrawal of the land acquisition proceedings, does not arise. The possession of the subject lands had already been taken by the Government and pattas have already been distributed to the eligible beneficiaries. Therefore, this Court finds no infirmity or illegality in the orders passed by the first respondent in W.P.No.1081 of 2010 and the second respondent in W.P.No.28271 of 2018.

9. In the result, both the Writ Petitions are dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
The Government of Tamil Nadu,
Department of Backward Classes & Most
Backward Classless Y Minorities Welfare (BC II)
Fort St.George, Chennai - 600 009.
2. The District Collector,
Dharmapuri District,
Dharmapuri.
3. The Special Tahsildar,
Adi-Dravidar Welfare,
Dharmapuri.

+1cc to Mr.S.Balaji, Advocate, S.R.No.58357

W.P.Nos.1081 of 2010 and
28271 of of 2018

PCH(CO)
RLP(02/12/2021)