



IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED : 24.09.2021

CORAM

WEB COPY

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

W.P.No.6334 of 2013

and

M.P.Nos. 2 of 2013 & 1 of 2014

1. T. Murugan  
2. T. Mattukkaran  
3. V.Chennammal  
4. Minor Ramesh  
5. Minor Roja  
(Petitioners 4 and 5 are minors  
represented by mother and  
natural guardian V.Chennammal)

.... Petitioners

Vs

1. The District Collector,  
Dharmapuri District,  
Dharmapuri.

2. The Special Tahsildar,  
Adi Dravidar and Tribal Welfare,  
Harur,  
Dharmapuri District.

.... Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records to notification in Na.Ka.No.1335/2003/A dated 07.05.2012 of the second respondent published in Dharmapuri District Gazette dated 22.06.2012, to quash the same and to issue consequential direction to the respondents to restore possession of the landed property (Punja) measuring 0.19.0 hectares in S.No.2/2B1 and 0.01.5 hectares in S.No.2/2B2, in Kathiripatti Village, Harur Taluk, Dharmapuri District, forthwith.

|                 |   |                                              |
|-----------------|---|----------------------------------------------|
| For Petitioners | : | Mr.T.Panchatsaram                            |
| For Respondents | : | Mr.M.R.Gokul Krishnan<br>Government Advocate |

ORDER

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus calling for the records to notification in Na.Ka.No.1335/2003/A dated 07.05.2012 of the second respondent published in Dharmapuri District Gazette dated 22.06.2012, to quash the same and to issue consequential direction to the respondents to restore possession of the



landed property (Punja) measuring 0.19.0 hectares in S.No.2/2B1 and 0.01.5 hectares in S.No.2/2B2, in Kathiripatti Village, Harur Taluk, Dharmapuri District, forthwith.

2. Heard, Mr.T.Panchatsaram, the learned counsel appearing for the petitioners and Mr.M.R.Gokul Krishnan, the learned Government Advocate appearing for the respondents.

3. The case of the petitioners is that the land comprised in Survey No. 2/2B1 ad-measuring 0.19.0 hectares situated at Kathiripatti Village, Harur Taluk, Dharmapuri District belong to their joint family. They belong to Tribal community and downtrodden people and they are very poor. While being so, in the year 2000, the second respondent trespassed into property and commenced construction of hostel for the students of the Government Tribal School (hereinafter called as "GTR School").

4. Further, the case of the petitioners is that there was no notice under The Land Acquisition Act. Therefore, the petitioners filed a suit in O.S.No.63 of 2004 on the file of the District Munsif Court, Harur, for declaration and recovery of possession in respect of the subject property. By a Judgment and Decree dated, 22.02.2006, the said suit was decreed in their favour. Aggrieved by the same, the respondents preferred an Appeal Suit in A.S.No.25 of 2006, before the Sub Court, Dharmapuri and the same was dismissed by a Judgment and Decree dated 28.11.2007.

5. While being so, the respondents initiated the proceedings under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (Tamil Nadu Act 31/1978) and issued notice under Section 4(1) of the Act. In fact, the petitioners also filed an Execution Petition in R.E.P.No. 11 of 2008 on the file of the District Munsif Court, Harur and delivery was also ordered on 05.03.2010. Even then, the respondents did not hand over the possession of the subject property to the petitioners. While being so, the second respondent has issued impugned notification. In fact, the petitioners also submitted their objections to the second respondent. Therefore, the entire proceedings is void ab initio and only to escape from the clutches of law in the decree passed by the Civil Court in O.S.No. 63 of 2004, in the impugned order issued by the second respondent.

6. Per Contra, the first respondent filed a counter stating that the land comprised in Survey No. 2/2B1, 2/2B2, 5/3C and 6/3A to an extent of 0.52.5 cents situated in Kathiripatti Village, Harur Taluk, Dharmapuri District, owned by the petitioner's father, i.e., Theerthagiri, under Patta No. 88. While being so, villages of Nattanvalavu represented to the then respondents during the year 1987 to 1989 to open a G.T.R.School in their village for the poor Scheduled Tribe children on surrounding villages.



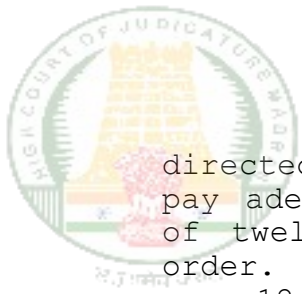
7. On the said request, the petitioner's father had willingly come forward to donate his patta land to commence the said G.T.R.School. Therefore, the general public of the entire village have collected a sum of Rs.3,500/- and paid the said sum to the petitioner's father in the year 1989 itself as compensation for the land donated by him. Immediately, the thatched house was put up in the said land and the G.T.R.School was commenced. Thereafter, by G.O.Ms.No 15, Adi Dravidar and Tribble Welfare Department, dated 06.02.1998, accorded to sanction a sum of Rs. 25,49,500/- (Rupees Twenty Five Lakhs Forty Nine Thousand and Five Hundred Only) for construction of terraced school building. Accordingly, the funds were transferred and constructed a terraced building even in the year 2000 itself. Thereafter, this school was shifted to the terraced building and it was running there. However, after the demise of their father, the petitioners claimed the said property.

8. Though, the petitioners have donated the said property in favour of the G.T.R.School, no donation deed was executed by him. After four years for construction of pukka terraced building, the petitioners have filed a suit in O.S.No.63 of 2004 on the file of the District Munsif Court, Harur. Though, the respondents contested the suit, it was decreed in favour of the petitioners. At that juncture, in order to settle the present issue, the respondents have contested to proceed the Land Acquisition proceedings under Section 4(1)(3) (b) of Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978.

9. The counter further reveals that, after the decree passed by the Civil Court, the school was shifted to the building owned by the Forest Department which was constructed under T.A.P. Schemes for the purpose of Community Training Hall as a temporary measures for time being and also in order to safeguard the education of the students who belongs to poor and downtrodden Scheduled Tribe of that area.

10. The learned counsel for the petitioner would submit that the petitioners may be compensated as per the present cost of the land and they are willing to receive the compensation. Considering the above and also to safeguard the G.T.R.School and its students welfare, the first respondent is directed to issue notice under the Land Acquisition proceedings under Section 4(1)(3) (b) of Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 and conduct proper enquiry and award adequate compensation to the petitioners in accordance with law.

11. Therefore, the first respondent is directed to issue proper notice to all the petitioners who are being the legal heirs of Theerthagiri and conduct enquiry before passing award. It is made clear that the first respondent is



directed to consider the present market value of the land and pay adequate compensation to the petitioners within a period of twelve weeks from the date of receipt of copy of this order.

12. With the above direction, the writ petition is disposed of. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Lpp/mn

To

1.The District Munsif,  
Harur

2.The Sub Court,  
Dharmapuri.

3. The District Collector,  
Dharamapuri District,  
Dharmapuri.

4. The Special Tahsildar,  
Adi Dravidar and Tribal Welfare,  
Harur,  
Dharmapuri District.

+1 cc to Government Pleader Sr.NO. 49735

W.P.No.6334 of 2013  
and

M.P.Nos. 2 of 2013 & 1 of 2014

BS (CO)

A.SK(26.10.2021)