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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.13630 OF 2021

AND

W.M.P NOS.14492 AND 15271 OF 2021

K.R.Lakshminarasimhan

...Petitioner

Vs

1. The State of Tamil Nadu,
Represented by the,
Secretary to Government,
Adi-Dravida Welfar Department,
Fort St.George,
Chennai - 600 009.
2. The District Collector,
Tiruvannamalai,
T.S.District.
3. The Special Tahsildar,
Land Acquisition,
Ad-Dravidar Welfare,
Polur, T.S.District.

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the 4(1) notice issued under the Tamil Nadu Acquisition of Lands for Harijan Welfare Act, 1978 (Tamil Nadu Act XXXI of 1978) published in the Gazette No.34 dated 16.08.2007 and the award of the third respondent made in Na.Ka.No.508 of 2007 dated 29.10.2007 and to quash the same as illegal, incompetent and ultravires and consequently direct the respondents to withdraw their steps taken towards the acquisition of petitioner's land in S.No.256 in Venmani Village, Polur Taluk in T.S.District. (Prayer amended vide order dated 16.07.2021 made in W.M.P.No.15268 of 2021 in W.P.No.13630 of 2021.



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For Petitioner : Mr.M.Sriram
for Mr.M.Guruprasad
For Respondents : Mr.G.Ameedius,
Government Advocate

ORDER

This writ petition is filed to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the notice issued under Section 4(1) of the Tamil Nadu Acquisition of Lands for Harijan Welfare Act, 1978 (Tamil Nadu Act XXXI of 1978) (hereinafter referred to as 'the Act' for short) published in Gazette No.34 dated 16.08.2007 and the award of the third respondent made in Na.Ka.No.508 of 2007 dated 29.10.2007 and to quash the same as illegal, incompetent and ultra-vires and consequently direct the respondents to withdraw their steps taken towards the acquisition of petitioner's land in S.No.256 in Venmani Village, Polur Taluk in T.S.District.

2. The petitioner owned the property of an extent of 1.67.5 hectares of land comprised in S.No.247/1 and of an extent of 2.65.5 hectares comprised in S.No.256, situated at Venmani Village, Polur Taluk, Thiruvannamalai District. The petitioner originally was served with a notice dated 01.10.1996 (Form No.1) under Rule 3(i) and Section 4(2) of the Act by the third respondent. Accordingly, the land ad-measuring an extent of 0.40 hectares comprised in S.No.256, was required for providing of house-sites for Adi-Dravidar. A notice under Clause (1) Rule 3 of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Rules, 1979 (hereinafter referred to as 'the Rules', for short) was issued by the third respondent calling upon the petitioner to raise objections on or before 18.10.1996. The enquiry was to be held on the said date before the third respondent under Section 4(2) of the Rules. The petitioner submitted objections to the said enquiry. However, again, the petitioner was served with another notice dated 28.10.1996, thereby informing that the enquiry was postponed from 18.10.1996 to 03.11.1996. Therefore, the petitioner was not given 15 days time to file his objections as per the said Rules. Hence, the petitioner challenged the notification issued under Section 4(1) of the Act in W.P.No.4977 of 1998 and this Court, by order dated 05.12.1997, quashed the acquisition proceedings and allowed the Writ Petition.

3. Again, the petitioner received a notice on 31.07.2000 in Form No.1, under Rule 3(1) of the Rules to appear before the third respondent and to submit his objections on or before 09.08.2000. Since the petitioner was employed in Bangalore, he



sent a letter dated 05.08.2000 to the third respondent seeking four weeks time for submitting his objections. However, the third respondent, without considering the request made by the petitioner, forwarded the report to the second respondent. On receipt of the report submitted by the third respondent, the second respondent issued a Notification under Section 4(1) of the Act. Therefore, again, the petitioner challenged the said Notification under Section 4(1) of the Act before this Court in W.P.No.8862 of 2001. This Court by order dated 10.11.2009 observed that "thus it could be seen that the violation of principles of natural justice is per se-apparent in not adhering to the statutory time limit, as well as failure to consider the request". The acquisition proceedings are liable to be set aside on this score also.

4. The respondents again after a period of more than four years, initiated the land acquisition proceedings in respect of the petitioner's property in S.No.256, situated at Venmani Village, Polur Taluk, Tiruvannamalai District, ad-measuring an extent of 2.65.5 hectares. The third respondent issued a notice in the last week of October 2007 addressed to one Kumar, S/o. Lakshminarasimhan and another, by name Chandrasekaran, S/o. Lakshminarasimhan. On 23.10.2007, attempts were made to serve notices on the petitioner, which was addressed to the said Kumar and Chandrasekaran. However, the said notices were returned by the petitioner, since they were not addressed to him. Subsequently, on 14.11.2007, a fresh notice was sought to be served on the petitioner. However, the said notice was also not addressed to the petitioner, whereas, it was addressed to the said Kumar and Chandrasekaran and since there was no such persons in those names, the said letter was returned as "no such addressee". The petitioner has only one son, viz., K.L.Srinivasan. However, the respondents attempted to acquire the subject land without following valid proceedings and without following the principles of natural justice. Therefore, the petitioner caused a legal notice dated 19.11.2007 to the respondents calling upon them to stop forthwith the arbitrary proceedings with regard to the acquisition of the subject land. Though the respondents received the same they did not reply to the same. Further, the petitioner was not called upon by the second respondent to show cause as to why the land of the petitioner comprised in S.No.256, should not be acquired. No notice in Form III as per the said Rule 5(1) was served on the petitioner. That apart, the impugned order dated 29.10.2007, was also not served on the petitioner.

5. Mr.M.Sriram, learned counsel appearing for the petitioner submitted that the provisions under Section 4 of the Act and Rule 5 of the Rules are not applied before passing the impugned order. The acquisition proceedings were initiated by the second



and third respondents in the year 1996 and the acquisition order passed in the year 1997 by the third respondent, was set aside by this Court in W.P.No.4977 of 2008, by order dated 09.12.2003 on the ground that the power under Section 4(1) of the Act can be exercised only by the second respondent and not by the third respondent. Therefore, the impugned order passed by the third respondent is not valid in the eye of law, since the third respondent has no authority to pass such order. That apart, no notice of enquiry under Section 4 of the Act and Rule 5 of the Rules was served on the petitioner. The impugned order was also not served on him immediately after it was passed. The petitioner is a retired Class IV employee in Karnataka Electricity Board and he is the sole bread winner in his family.

6. On a perusal of the counter affidavit, it reveals that the petitioner is an employee of Karnataka State Electricity Board and became as a absentee pattadar. Therefore, his contention that his entire family depends upon this land for his livelihood, is not maintainable. The proposals to acquire was only 1.62.5 hectare/4.00 acres out of 2.65.5 hectare/6.56 acres of the petitioner's land comprised in Survey No.256 situated at Venmani Village and the acquisition proceedings have been initiated on 17.05.2007. The notice under Section 3(1) of the Act issued to the proposals, refer to the said Chandrasekar and Kumar who are said to be the sons of the petitioner, as it is ascertained that the petitioner was no more. Further, the petitioner was an absentee pattadar and his lands were kept follow and he did not pay Land Revenue properly for each Fasali. Hence, according to the information gathered by way of local enquiry, the notice was sent to the above persons to the address of the petitioner, which got returned as "No such Person". A legal notice dated 19.11.2007 sent on behalf of the petitioner, was received on 19.11.2007 itself. When the matter was under consideration, the petitioner filed a Writ Petition before this Court in W.P.No.36502 of 2007, in which interim injunction of dispossession alone, was ordered. However, it cannot be followed, since the possession of the entire land, has already been taken and house-site pattas have been issued to the beneficiaries on 13.11.2007. Therefore, the said Writ Petition was dismissed, with a direction to the respondent therein to furnish the copy of notice under Section 4(2) as well as the Notification under Section 4(1) of the Act and liberty was granted to the petitioner to work out his remedy in the manner known to law.

7. Admittedly, the petitioner is very much alive and no statutory notices were served on him under Section 4(1) of the Act and Rule 5 of the Rules to the petitioner. In fact, the impugned order was also not served on him immediately after passing the Award. The petitioner has also filed an affidavit



dated 18.08.2021 that he had executed a Power of Attorney on 06.07.2011 in favour of one C.Balasubramanian and he also produced life certificate dated 18.08.2021 and the petitioner's signature was also certified on verification of his Aadhar Card.

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8. In view of the above discussion, the impugned proceedings are quashed. Accordingly, this Writ Petition is allowed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
The State of Tamil Nadu,
Adi-Dravida Welfar Department,
Fort St.George,
Chennai - 600 009.
2. The District Collector,
Tiruvannamalai,
T.S.District.
3. The Special Tahsildar,
Land Acquisition,
Ad-Dravidar Welfare,
Polur, T.S.District.

+1cc to M/s.M.Guruprasad, Advocate, S.R.No.66466

+1cc to the Special Government Pleader, S.R.Nos.67074 & 67106

W.P.No.13630 of 2021

RP (CO)
RLP (22/12/2021)