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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2021

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.NO.18497 OF 2014 AND W.P.NOS.830, 1354 AND 1355 OF 2015  
AND

W.M.P.NOS. 2 & 3 OF 2014 AND W.M.P.NOS. 1, 1, 2 & 2 OF 2015

In W.P. No. 18497 of 2014:  
K.Ramakrishnan

... Petitioner

In W.P. No. 830 of 2015:  
1. K.Sankaravadivelu  
2. Venkatakrishna Janakiraman  
3. J.Janet

... Petitioners

In W.P. No. 1354 of 2015:  
1.Mahalakshmi  
2.R.Radha  
3.Hema

... Petitioners

In W.P. No. 1355 of 2015:  
1.Amutha  
2.S.Jeyakumar

... Petitioners

-VS-

1. The District Collector,  
Cuddalore District,  
Office of the Collectorate,  
Cuddalore - 607 001.



2. The Special Tahsildar (ADW),  
Office of the Special Tahsildar,  
Cuddalore.

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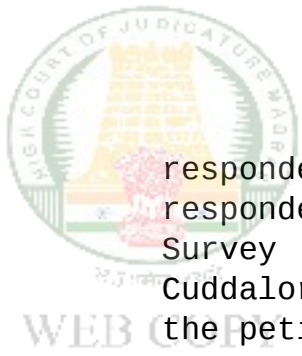
... Respondents in all W.Ps.

Prayer in W.P. No. 18497 of 2014:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order made in W2/9150/2012 dated 28.05.2014 passed by the first respondent and quash the same and consequently forbear the respondents from acquiring the agricultural lands comprised in Survey No.45/7A and 45/7B situated at Thottapattu Village, Cuddalore Taluk and District an extent of 1.20 acres owned by the petitioner.

Prayer in W.P. No. 830 of 2015:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents from any manner acquiring, interfering and dispossessing the petitioners from their properties more particularly described in the petition schedule without issuing notice under the provisions of Tamil Nadu Acquisition Lands for Harijan Welfare Schemes Act 31 of 1978.

Prayer in W.P. No. 1354 of 2014:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order made in W2/9150/2012 dated 28.05.2014 passed by the 1<sup>st</sup> respondent and quash the same and consequently forbear the respondents from acquiring the agricultural lands comprised in Survey No.45/7A and 45/7B situated at Thottapattu Village, Cuddalore Taluk and District an extent of 4282 Sq.fts owned by the petitioners.

Prayer in W.P. No. 1355 of 2014:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order made in W2/9150/2012 dated 28.05.2014 passed by the 1<sup>st</sup>



respondent and quash the same and consequently forbear the respondents from acquiring the agricultural lands comprised in Survey No.45/7A and 45/7B situated at Thottapattu Village, Cuddalore Taluk and District an extent of 3000 Sq.ft. owned by the petitioners.

For Petitioners  
in all W.Ps. : Mr.G.Ethirajulu

For Respondents  
in all W.Ps. : Ms.Akila Rajendran  
Government Advocate

#### COMMON ORDER

Since the subject matter in all the four Writ Petitions is one and the same or overlapping with each other and the parties to the Writ Petitions are also same and the issue raised in these Writ Petitions are also one and the same, with the consent of the learned counsel appearing for the parties, all the four Writ Petitions are taken up together for hearing and are being disposed of by this common order.

2. The very short facts which are required to be noticed for the disposal of these Writ Petitions are given below in each of the cases:

(i) W.P. No. 18497 of 2014:

(1) The petitioner in this Writ Petition is one Ramakrishnan having agricultural lands at Survey No.45/7A at Thottapattu Village, Cuddalore Taluk and District to an extent of 2.25 acres. The said land since was sought to be acquired under the provisions of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act 1978, in short 'The Act'; a notice under Section 4(2) of the said Act was issued by the respondents on 25.02.2005 seeking objection for the proposed acquisition of 1.22 acres alone in the said Survey No.45/7A.

(2) The petitioner Ramakrishnan submitted his explanation on 01.07.2005 and on 06.07.2005, the enquiry was conducted, he



had given a statement, thereafter, nothing was happened.

(3) On 02.12.2012, a fresh notice was issued under Rule 3(1) of the Rules called The Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Rules, 1979, in short 'The Rules', by which, the petitioner was directed to file his objection. The petitioner and others submitted their reply on 04.01.2013 and on 10.01.2013, they have given written statement also. Thereafter, on 21.06.2013, the second respondent issued notification under Section 4(1) of the Act.

(4) Felt aggrieved over the said 4(1) notification, the petitioner and others filed Writ Petitions in W.P. Nos. 19856 and 18379 of 2013 challenging the said 4(1) notification.

(5) The said Writ Petitions were heard and disposed of by a common order by this Court on 18.09.2013, whereby, a learned Judge quashed the notification on the ground that, since there has been no subjective satisfaction on the part of the District Collector concerned, which is mandated in the Act, and only on the basis of the satisfaction of the State Government since proceedings was issued under 4(1) notification, it was considered to be the violation of the mandatory provision under the Act. Accordingly, the said notification issued under Section 4(1), i.e., land acquisition notification itself was quashed. The relevant portion of the said order reads thus:

"30. As rightly pointed out by the learned counsel appearing for the petitioners, files do not disclose the subjective satisfaction of the District Collector, as mandated under the Act, but reflects only the satisfaction of the State Government. Mandatory provisions under the Act, have not been followed.

31. In the light of the discussion and the decision stated supra, the proceedings impugned in both the writ petitions are liable to be set aside. Liberty is given to the respondents to proceed further in accordance with law, if they so desire. But at the same time, the respondents shall also consider the passage of time.

32. Both the writ petitions are allowed. No costs. Consequently, the connected Miscellaneous Petitions are closed."



(6) Subsequent to the said quashment of the notification under Section 4(1) by the orders of this Court dated 18.09.2013, if at all, the respondents wanted to reissue the notification, i.e., proceedings of Land Acquisition under the said Act, notice under 4(2) should have been first issued. However, the respondents have issued notice on 06.01.2014 under Form-III under Rule 5(i) of the Rules, which is meant for a notice to determine the award amount. In order to appreciate the same, notice issued on 06.01.2014 under Rule 5(i) of the Rules is extracted hereunder:

FORM - III

See rule 5(i)

"Notice is hereby given that the Collector of Cuddalore District by his notification No.W2/944/2004 dated 28.05.2013 published at pages 5 of Part-3 Section3(1) of the District Gazette, dated the 28.05.2013 has decided to acquire the land / lands mentioned in the Schedule below under sub-section (1) of Section 4 of the Tamil Nadu Acquisition of land for Harijan Welfare Schemes Act, 1978 (Tamil Nadu Act 31 of 1978)

You are hereby directed to appear in person or by authorised agent at the Office of the Special Tahsildar (ADW), Cuddalore, on 21.01.2014 at 3.00 p.m. before the authorised Officer / Special Tahsildar (ADW), Cuddalore and to state / put in a statement in writing signed by you or your authorised agent, showing the nature of your interest in the land / lands the amount payable for such interest in the land / lands with particulars thereof and your objections, if any to the measurement made and to put in a statement containing so far as may be practicable the name of every other person possessing any interest in the land or any part of it as joint owner, mortgagee, occupant or otherwise, the nature of such interest and the rents and profits, if any, received or receivable on account of it for three years next proceeding at date of statement."

(7) The petitioner on receipt of notice in Form-III under Rule 5(i) as stated supra had given his written objections to state that, notice under Form-III under Rule 5(i) ought not to have been issued, proper notice to be issued is notice under Section 4(2), since 4(1) notification has been quashed by this Court.



(8) Though the said objection was primarily raised by the petitioner, Ramakrishnan, the same had been rejected by the order of the first respondent dated 28.05.2014, as against which, this Writ Petition was filed with the prayer to quash the same and to give a direction to drop the further proceedings under the said Act for the proposed land acquisition of the petitioner's land.

(ii) W.P. No. 830 of 2015:

The said Ramakrishnan, who is the petitioner in W.P. No. 18497 of 2014 as referred to above has sold a portion of the property in question to three persons namely K.Sankaravadivelu, Venkatakrishna Janakiraman and J.Janet in three different sale deeds dated 24.06.2010, 30.06.2010 and 19.07.2010. Therefore, they became owners of the part of the property in question and therefore, felt aggrieved over the said order passed by the first respondent on 28.05.2014, these petitioners also have filed this Writ Petition, i.e., W.P. No. 830 of 2015 seeking for a Writ of Mandamus forbearing the respondents from in any manner acquiring, interfering and dispossessing the petitioners from their properties.

(iii) W.P. No. 1354 of 2015:

The said Ramakrishnan has settled a portion of the property to three of his daughters namely, Mahalakshmi, R.Radha and Hema by three different settlement deeds on 06.05.2011, which were registered as Document Nos.1615, 1614 and 1616 of 2011 on the file of the District Registrar, Cuddalore, thereby, these three persons have become owners of some of the property of the subject matter and accordingly, they also felt aggrieved over the order passed by the first respondent dated 28.05.2014 filed this Writ Petition with the prayer to quash the said order dated 28.05.2014.

(iv) W.P. No. 1355 of 2015:

The said Ramakrishna had sold some portion of the property to two persons namely Amutha and S.Jeyakumar by two separate sale deeds dated 06.05.2011 and 09.09.2011, which were registered as Document Nos.1617 and 3772 of 2011 on the file of the District Registrar, Cuddalore, that is how, these two persons have become owners of the portion of the property. Therefore, since they have also felt aggrieved over the order



impugned passed by the first respondent dated 28.05.2014 filed this Writ Petition with the respective prayer.

3. That is how, all these four Writ Petitions have been filed with the respective prayers.

4. The sum and substance of the issue raised in all the four Writ Petitions are that, even though 4(1) notification was issued and when the same was questioned by the said Ramakrishnan, who is the petitioner in W.P. No. 18497 of 2014, the said 4(1) notification was quashed by this Court, by order dated 18.09.2013. In the said order, 4(1) notification was quashed, on the ground that, there has been no subjective satisfaction on the part of the District Collector which is mandatory. Therefore, subjective satisfaction of the State Government would not be enough to come to a conclusion that, there has been a subjective satisfaction on the part of the District Collector. Therefore, on that ground, 4(1) notification was quashed.

5. Though, liberty was given to the respondents to proceed further in accordance with law, if they so desire, the learned Judge has also reminded that, the respondents shall also consider the passage of time.

6. Nevertheless, the respondents have proceeded further and if they desire to proceed further, no doubt, they could have proceeded in accordance with the provisions of the Act as well as the Rules made therein.

7. In this context, a fresh 4(2) notice should have been issued to the petitioners herein and after hearing their objections, 4(1) notice can subsequently be given or followed by the same, could have been issued and thereafter, it can be proceeded in accordance with law.

8. However, the respondents instead of issuing notice under Section 4(2) of the Act, had simply issued Form-III notice under Rule 5(i). Rule 5(i) of the Rules relates to procedure for determining the amount. Rule 5(i) states that, immediately after the publication of the notice under sub-section (1) of Section 4 of the Act in the District Gazette by the District Collector, the prescribed authority shall serve a notice in Form-III to the



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owner and to all persons interested to appear before him on a day to be specified which shall not be earlier than fifteen days after the publication of notice under sub-section (1) of section 4 of the Act, for inquiry. The notice shall also be displayed at prominent places or near the land under acquisition.

9. Thus, as has been contemplated under Rule 5(i), if notice under Form-III is to be issued, that should be only after 4(1) notice issued in the District Gazette. However, unmindful of the mandatory procedure established under the Act as well as the Rules, straight away they issued Form-III notice under Rule 5(i) on 06.01.2014 which has already been quoted herein above.

10. Therefore, it has been crystal clear that, subsequent to the quashment of 4(1) notification by the orders of this Court dated 18.09.2013, no fresh notice under 4(2) was issued and thereafter, no notification in District Gazette under 4(1) was issued. When that being so, the respondents ought not to have issued Form-III notice under Rule 5(i) for determination of the compensation. Therefore, rightly objection has been raised by the petitioners, especially the petitioner in W.P. No. 18497 of 2014, however, the same has been rejected mechanically by the first respondent through the impugned order. Therefore, this Court has no hesitation to hold that, the said impugned order, for the reasons stated therein, has to be considered as a flagrant violation of the provisions of the Act as well as the Rules made therein, hence, is liable to be quashed.

11. Since in three Writ Petitions out of four, the very same impugned order has been challenged, the said prayers sought for in those Writ Petitions can very well be allowed. Insofar as the another Writ Petition is concerned, though a Writ of Mandamus is asked for, forbearing the respondents to proceed further or dispossess the petitioners from the property in question concerned, such kind of blanket order cannot be given. But at some point of time, once 4(1) notification having been quashed by the orders of this Court, subsequently, if at all the respondents desire of proceeding further to issue a fresh land acquisition proceedings, they should start from 'Square A'.



Therefore, Section 4(2) of the Act is to be followed before issuing proceedings under 4(1) notification. Only thereafter, Form-III notice would come into picture.

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12. Without exhausting all these mandatory procedures established under the Act and the Rules, since Form-III notice was issued followed by the rejection order made by the first respondent through the impugned order, in all these Writ Petitions, this Court, has come forward to quash the impugned order. Accordingly, the impugned order dated 28.05.2014 made by the first respondent in these Writ Petitions are hereby quashed.

13. As a sequel, it is open to the respondents to proceed further in this matter, for which, if they desire to acquire the land in question belongs to the petitioners, fresh land acquisition proceedings can very well be initiated in the manner known to law.

14. In this context, it is further to be noted that, even in the year 2013, while quashing the 4(1) notification, the learned Judge has reminded that the respondents shall also consider the passage of time.

15. After that order was passed, now eight years have gone, after nearly two decades, still the respondents, especially the first respondent / District Collector, is having reason for subjective satisfaction for acquiring the land belongs to the petitioners, is a question to be asked by themselves. In that circumstances, this Court feels that, the present impugned order cannot be sustained. Therefore, it was quashed. However, consequential direction though was sought for by way of blanket prohibition against the respondents, the same cannot be given by this Court. However, it has once again been remitted back to the first respondent, where the passage of time since still has been extended, after these much of years, whether there is any requirement for having the land to be acquired may be decided by the respondents with subjective satisfaction as mandated under Section 4(1) of the Act.



16. With these observations and directions, these Writ Petitions are ordered. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-  
Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

vji/MR

To

1. The District Collector,  
Cuddalore District,  
Office of the Collectorate,  
Cuddalore - 607 001.
2. The Special Tahsildar (ADW),  
Office of the Special Tahsildar,  
Cuddalore.

+1cc to Mr.G.Ethirajulu, Advocate, S.R.No.36354

+1cc to the Government Pleader, S.R.No.36260

W.P.No. 18497 of 2014 and W.P. Nos. 830, 1354  
and 1355 of 2015

and  
W.M.P. Nos. 2 & 3 of 2014 and  
W.M.P. Nos. 1, 1, 2 & 2 of 2015

GPL(CO)  
RLP(20/09/2021)