

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2021

CORAM : JUSTICE N.SESHASAYEE

W.P.No.21523 of 2019

Jayanthi

... Petitioner

Vs.

1.State of Tamil Nadu

Rep by the Secretary to the Government,
Adi Dravidar and Social Welfare Department,
Fort St.George, Chennai 600 009.

2.The Director Adi Dravidar Department,
Chepauk, Chennai 600 005.

3.The District Adi Dravidar and Tribal Welfare Officer,
Cuddalore.

4.The District Collector,
Cuddalore.

5.The Special Tahsildar,
(Adi Dravidar Welfare)
Cuddalore.

6.The Tahsildar (Revenue),
Cuddalore Taluk,
Cuddalore District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus, to direct the respondents to hand over vacant possession of the land admeasuring 0.14.5 Hectares of land comprised in Survey No.14/2A of Kizh Alinjipattu Village, Cuddalore District to the petitioner.

For Petitioner : Mr.R.N.Amarnath

For Respondents : Mr.D.Raja, AGP

ORDER

This writ petition has been filed to issue a Writ of Mandamus to direct the respondents to hand over the vacant possession of the land admeasuring 0.14.5 hectares of land comprised in Survey No.14/2A of Kizh Alinjipattu Village, Cuddalore District to the petitioner.

2. The case of the petitioner may be stated as follows:

- The petitioner as well as her parents owned a property comprising in S.Nos.14/2A, 162/08 & 14/2B in Kizh Alinjipattu Village. This was notified for acquisition under the provisions of the Tamil Nadu Acquisition of Land for Harijan Welfare Act, 1978. Promptly, the petitioner and her parents challenged the said acquisition in W.P.Nos.4345 to 4347 of 2000. This Court, Vide its order dated 27.02.2003, quashed the entire land acquisition proceedings. This was challenged by the land acquisition authority in W.A.Nos.2173 to 2175 of 2003. During the pendency of the said proceedings, the Bench, before which the aforesaid writ appeals were pending, was informed that fresh acquisition proceedings have been initiated under Section 4(2) of the Act, has been published. Accordingly, W.A.Nos.2173 to 2175 of 2003 came to be dismissed as having become infructuous. In other words, the orders passed in W.P.Nos.4345 to 4347 of 2000 had become final.
- During the pendency of the writ appeals, the land acquisition authority has passed an award dated 16.12.2004, which had its natural death, and had become non-est in the eye of law for the reasons already stated. In the meantime, the authorities have allotted the properties to the beneficiaries, and all except 0.14.5 hectares in S.No.14/2A was fully utilized. To cut the long story short, subsequent to the awards, there were some disputes, and finally, it all boiled down to an agreement entered into between the respondents and the petitioner. This has resulted in a proceedings in Na.Ka.W2/43330/2004 dated 19.07.2018.
- In this proceedings addressed to the Director, Adi Dravidar and Social Welfare Department, it is mentioned by the District Adi Dravida Welfare Officer that as per the compromise entered into with the land owner, it was inter alia agreed that the petitioner would be given back 0.14.5 hectares of land, and the petitioner also agreed to receive the compensation amount which was not paid for more than a decade.

3. As to be expected, this promise was not respected by those who ought to respect it. Hence, the present writ petition.

4.1 In the counter, it is stated in paragraph No.5 that since the acquisition, the proposed property which has to be returned to the petitioner, has been classified as Adi Dravidar Natham. The same has to be reclassified and the property has to be reconveyed and the proposal would be sent to the Government at the earliest date.

4.2 Heard Mr.D.Raja, learned Additional Government Pleader for the respondents. He reiterated the averments contained in the counter affidavit.

5. This is unfortunate and perhaps in this State, it is something the citizens cannot avoid experiencing (something about which this Court is not shocked, for it is now accustomed to responses and familiar with such experience) that the District Adi Dravidar Welfare Officer, who had written to the Director of Adi Dravidar Welfare Department on 19.07.2018, is stating that he is only contemplating to send a proposal to the Government. In the counter, the District Collector only proposed to send the proposal to the Government, and obviously, these administrators are sitting on the issue for about 2 ½ years now. So much about the flow of information internally.

6. As to the second part, in Paragraph Nos.6 & 7 of the counter, it is stated that there are around 16 encroachers in that portion of the property which it has promised to be returned to the petitioner. It is the responsibility of the Government, for it is they who created a situation such as this. In this country, the encroachers appear to have comfortable existence than the legitimate owners of land, and this Court anticipates that the District Collector ultimately may hide behind the encroachers for not performing that which the Collector ought to perform in terms of his own statement in the counter. Hence, this Court now directs the District Collector to do that which he has undertaken to do in the counter affidavit.

7. In conclusion, this Court directs the authority concerned to hand over the possession to the petitioner within a period of sixteen (16) weeks from the date of receipt of a copy of this order, less any time lost by the Revenue Authorities in connection with the General Election-2021 related responsibilities, which is schedule to take place shortly.

8. With the above direction, this writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar
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Sub Assistant Registrar

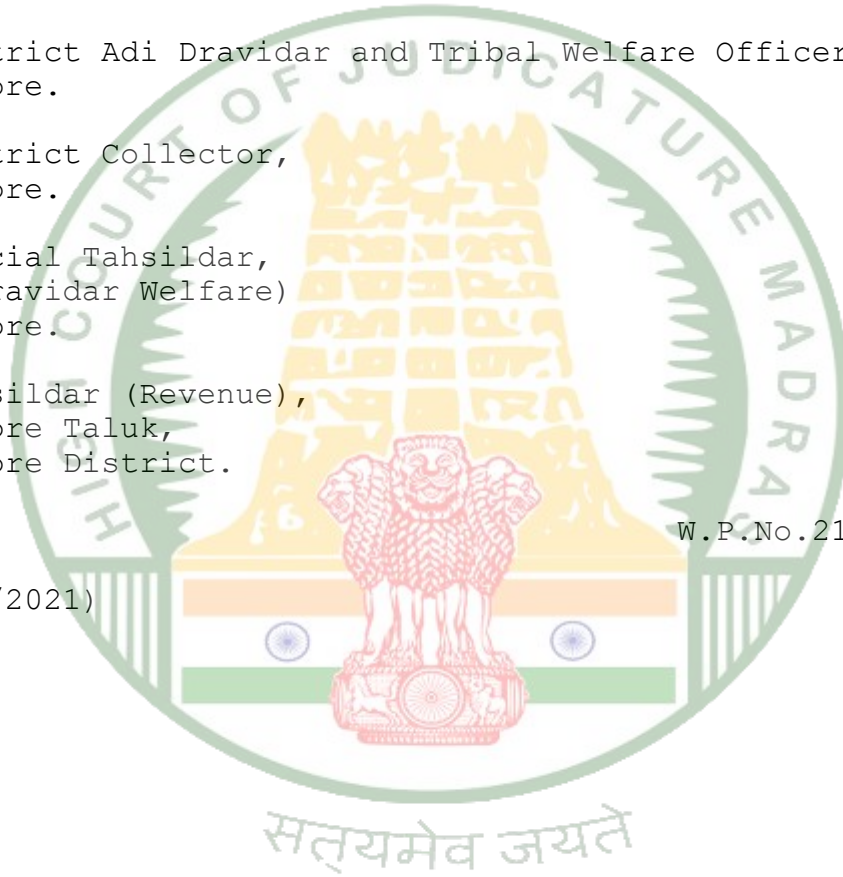
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To

- 1.The Secretary to the Government,
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- 6.The Tahsildar (Revenue),
Cuddalore Taluk,
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PL(CO)
RMP(09/04/2021)

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