

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2021

CORAM

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. No. 15288 of 2010

1.P.Seetharam Murthy

2.Krishnappa (deceased)

3.Lakshamma

4.Mohan

5.Shoba

6.Babu

(P3 to P6 are substituted as Legal Representatives of deceased petitioner P2 as per order dated 13.11.2019 made in WMP. No.29974 of 2019 in W.P. No.15288 of 2010)

... Petitioners

Vs

1.The District Collector,
Krishnagiri,
Krishnagiri District.

2.Spel. Tahsildar,
(Adi-Dravida Welfare),
Krishnagiri,
Krishnagiri District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents to acquire the land bearing Survey No.224/3 Vysore Agraharam Village, measuring extent of 2 acres Government land (Porampoke-Anadeenam) and in additional Survey No.281/1A measuring extent of 2 acres dry land in Survey No.237, 240, 241, 242 instead of land bearing Survey No.223/1A1 agricultural land acquired by the respondents for providing house sites under Adi-Dravidar Welfare Scheme under Section 4(1) of Tamilnadu Land Acquisition Act notification issued by the respondents on 15.11.1997.

For Petitioners : Mr. K.M.Kanishkaran

For Respondents : Mr. M.Elumalai

Additional Government Pleader

O R D E R

This Writ Petition has been filed for issuance of Writ of Mandamus directing the respondents to acquire the land bearing

Survey No.224/3 Vysore Agraharam Village and in addition to some other lands in the same village for providing house sites under Adi-Dravidar Welfare Scheme.

2. The petitioners have indirectly challenged the acquisition proceedings which is in respect of the lands belonged to the petitioners. A notification was issued by the second respondent to acquire certain lands for the purpose of providing house sites to Adi-Dravidar people. An extent of 4.05 acres of land in Survey No.223/1A was earmarked under Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act (Act 31 of 1978). A notice under Section 4(2) of the Act was issued inviting objections from the land owners namely the petitioners in this Writ Petition. The petitioners have raised objections stating that the land which is sought to be acquired is an agricultural land and that they are doing cultivation in the said land. The petitioners have also stated that they have some other than land which is mentioned in the notice under Section 4 (2) of the Act. It is also stated by the petitioners in their objections that there are several other lands which are lying waste and that the land which is classified as poramboke is also available for using it for the said purpose.

3. Learned Additional Government Pleader representing the respondents, on instructions, states that the petitioner's objections will be considered and that the petitioners cannot approach this Court even before the issuance of notification under Section 4(1) of the Act. It is further stated by the learned Additional Government Pleader that the State Government is competent to acquire the land by initiating proceedings lawfully under the State act and the petitioners cannot approach this Court seeking direction either to acquire the particular land or not to acquire the land which belongs to the petitioners.

4. It is also admitted before this Court that the present Writ Petition is not challenging notification issued under Section 4(2) of the Act. The Writ Petition is not maintainable as the petitioners will have cause only if the Government or the District Collector proceed with the notification by issuing notification under Section 4(1) of the Act. This Court is unable to entertain the Writ Petition for a simple reason that the acquisition in the present case is at the stage of holding enquiry before issuing notice under Section 4(1) of the Act (Act 31 of 1978). The respondents have to consider whether the petitioner's land is suitable for the said purpose or any other alternative land as suggested by the petitioner. Merely because the petitioners have some objections, this Court cannot direct the respondents not to acquire the petitioner's land or to acquire land other than the petitioner's land.

5. In the present case, the petitioners state that they are doing cultivation in the lands which is sought to be acquired by issuing notice under Section 4(2) of the Act. The petitioners themselves have given some alternative site and states that the alternative site will be more useful than the lands now earmarked for acquisition. The petitioners have also raised objections pointing out the availability of several other poromboke lands for providing house sites to Adi-Dravidars or to use the land for any Harijan Welfare Scheme. All the objections shall be considered by the respondents before issuing notice under Section 4(1) of the Act. However, the Writ Petition filed by the petitioners at this stage cannot be entertained without even allowing the respondents to consider the petitioner's objections and to take a decision in the manner known to law. The petitioner's objections are reasonable and that due consideration may be given by the respondents before issuing notice under Section 4(1) of the State Act. The petitioners may also be given an opportunity to put forth their case along with the documents in case they seek personal hearing. If the respondent after due consideration of objections, issue or had already issued 4(1) notification, the petitioners can challenge the same.

6. This Writ Petition is dismissed. No costs. It is open to the petitioners to raise all their objections and the respondents shall consider the petitioner's objections and proceed thereafter, in the manner known to law.

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

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To

1. The District Collector,
Krishnagiri,
Krishnagiri District.

2. The Special Tahsildar,
(Adi-Dravida Welfare),
Krishnagiri District.

+1 CC to Mr. M. Jagadeesan, Advocate sr 5001.

+1 CC to The Government Pleader sr 5198.

W.P. No. 15288 of 2010

SKY (CO)
SP(19/05/2021)