

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2021

CORAM:

THE HON'BLE MR.JUSTICE N.SESHASAYEE

W.P.No.19745 of 2020
and W.M.P.Nos.24401 to 24403 of 2020

1.Unnamalai

2.Govindhammal

...Petitioners

Vs.

1.The District Collector-cum-District
Executive Magistrate,
District Collector's Office,
Dharmapuri.

2.The Special Tahsildar,
Adi Dravidar Welfare Department,
Dharmapuri Division,
Dharmapuri Taluk Office,
Dharmapuri.

3.The Tahsildar-cum-Taluk
Executive Magistrate,
Karimangalam Taluk Office,
Karimangalam Taluk,
Dharmapuri District.

4.The Revenue Inspector,
Karimangalam Revenue Firka,
Karimangalam Taluk,
Dharmapuri District.

5.The Village Administrative Officer,
Bandharahalli Village,
Karimangalam Taluk,
Dharmapuri District.

...Respondents

Writ petition filed under Section 226 of the Constitution of India to issue a writ of certiorarified mandamus to quash the award of Land Acquisition Proceedings Na.Ka.No.1957/95/A dated 21.01.1997 passed by the Special Tahsildar - Adi Dravidar Welfare, Dharmapuri Division in respect of the Schedule lands having a total extent of 0.55.0 Hectares (1.36 Acres) comprised

the village Survey Nos.36/2A & 2B in Bandharahalli Village, Karimangalam Taluk (formerly in Palacode Taluk) of the Dharmapuri District and further direct the respondents herein to restore the Schedule Lands back to the petitioners herein.

For Petitioners : Mr.Mira Aurobindo Cumar
For Respondents : Mr.D.Raja
Additional Government Pleader

O R D E R

Challenging the Land Acquisition Proceedings Na.Ka.No.1957/95/A dated 21.01.1997 passed by the Special Tahsildar - Adi Dravidar Welfare, Dharmapuri Division, in respect of the Schedule lands having a total extent of 0.55.0 Hectares (1.36 Acres) comprised in the village Survey Nos.36/2A & 2B in Bandharahalli Village, Karimangalam Taluk (formerly in Palacode Taluk) of the Dharmapuri District and further direction to the respondents herein to restore the schedule lands back to the petitioners herein, the present writ petition has been filed.

2. The petitioner challenges the acquisition of the their properties comprised in Survey Nos.36/2A & 2B in Bandharahalli Village, Karimangalam Taluk (formerly in Palacode Taluk) of the Dharmapuri District, acquired under the provisions of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (for brevity "the Act"). The notification of the land acquisition under Section 4(1) of the Act was issued on 29.12.1995 and the award was passed on 21.01.1997.

3. The grievances of the petitioners are twofold:
- (a) that no personal notice was given to the petitioners under Section 4(2) of the Act and the petitioners were denied an opportunity of hearing; and
 - (b) that even compensation was made in the name of the deceased owner of the property.

4. Heard Mr.Mira Aurobindo Cumar, learned counsel for the petitioners and Mr.D.Raja, learned Additional Government Pleader appearing for the respondents.

5. The learned counsel for the petitioners submitted that it is evident even from the case of the respondents, as indicated in the counter and in the typed set of papers, that no notice seems to have been served on the petitioners under Section 4(2) of the Act. This is a mandatory provision and hence, the present petition is liable to be allowed. He also made a statement that the petitioners have not been heard before passing the award.

6. Mr.D.Raja, learned Additional Government Pleader submitted that the award amount has been deposited in the Subordinate Court concerned and it is there.

7. The petitioners might have had a good case, if they had approached this Court some twenty five years ago. After a lapse of twenty five years, many of the grounds they want to raise have become meaningless. More particularly, their objection regarding non-service of notice under Section 4(2) of the Act, which is only a preliminary notice prior to acquisition and when a Notification under Section 4(1) is gazetted.

8. As far as the compensation amount is concerned, it is stated to be lying in the Subordinate Court concerned. The petitioners are at liberty to establish their title as on the date of acquisition that the title of the property has already devolved on the petitioners, and obtain the compensation amount lying with the Court.

9. So far as the present case is concerned, it is very badly hit by laches and the Court is not inclined to take cognizance of the lapsed cause of action for filing of the said petition.

Accordingly, this writ petition is dismissed subject to what has already been carried above. No costs. Connected W.M.Ps. are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

nsd

To

1.The District Collector-cum-District
Executive Magistrate,
District Collector's Office,
Dharmapuri.

2.The Special Tahsildar,
Adi Dravidar Welfare Department,
Dharmapuri Division,
Dharmapuri Taluk Office,
Dharmapuri.

3.The Tahsildar-cum-Taluk
Executive Magistrate,
Karimangalam Taluk Office,
Karimangalam Taluk,
Dharmapuri District.

4.The Revenue Inspector,
Karimangalam Revenue Firka,
Karimangalam Taluk,
Dharmapuri District.

5.The Village Administrative Officer,
Bandharahalli Village,
Karimangalam Taluk,
Dharmapuri District.

6.The Subordinate Judge,
Dharmapuri District.

7.The Public Prosecutor,
Madras High Court,
Chennai - 600 104.

+1 CC to The Government Pleader sr 16115.

+1 CC to Mr.Mira Aurobindo Kumar, Advocate sr 16018.

W.P.No.19745 of 2020

GPL(CO)
SP(15/04/2021)



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