



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 11.03.2021

Pronounced on : 25.03.2021

CORAM

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THE HON'BLE MR.JUSTICE V.PARTHIBAN

**S.A. (MD)No.496 of 2016, W.P. (MD)Nos.6061 and 19091 of 2018
and
W.M.P. (MD)Nos.16941, 5930 and 5931 of 2018**

S.A. (MD)No.496 of 2016

1.Rasaniammal
2.Krishnammal ... Appellants/Appellants/Plaintiffs

vs.

1.The District Collector,
Collectors' Office,
Tirunelveli District.

2.The Special Tahsildar,
Adi Dravidar Welfare Department,
Sankarankovil,
Tirunelveli District. ... Respondents/Respondents/Defendants

Prayer: Appeal filed under Section 100 of Civil Procedure Code against the decree and judgment passed in A.S.No.15 of 2014 by the Sub Court, Sankarankovil on 28.10.2014 confirming the decree and judgment in O.S.No.368 of 2011 passed by the Additional District Munsif Court on 08.11.2013.

For Appellants : Mr.V.Vijaya Shankar
for M/s.Ramesh @ Ramiah
For Respondents : Mr.C.Ramesh
Special Government Pleader

W.P. (MD)No.6061 of 2018

Erasaniammal ... Petitioner

-vs-

1. The Commissioner,
Adi - Dravida Welfare Department,
Chennai.



2. The Tahsildar,
Adi-Dravida Welfare,
Sankarankovil,
Tirunelveli District.

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3. Krishnan
4. Paulraj
5. Valliammal
6. Karuppan
7. Vanaraj
8. Subramanian
9. Arumugam
10. Madasamy
11. Paramasivan
12. Irulappan
13. Isakkimuthu
14. Muniyandi
15. Gurusamy
16. Gnanasekar
17. Gurusamy
18. Isakkimuthu
19. Guruvammal

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari to call for the records of the second respondent in Na.Ka.No.1750/91, dated 02.09.1997 assigning the petitioner's land to the respondents 3 to 19 who are already owning houses, quash the same.

For Petitioner : Mr.V.Vijaya Shankar
For Respondents : Mr.C.Ramesh
1 and 2 Special Government Pleader

W.P. (MD)No.19091 of 2018

Erasaniammal

... Petitioner

-vs-

1. The Government of Tamil Nadu,
Represented by its Secretary,
Adi - Dravidar and Tribal Welfare Department,
Fort St. George,
Chennai - 9.

2. The District Collector,
Tirunelveli District.



3. The Special Tahsildar,
(Adi-Dravidar and Tribal Welfare Department)
Sankarankovil,
Tirunelveli District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Declaration declaring that the Land Acquisition Proceedings dated 18.03.92, 23.06.93 and 01.12.93 initiated by the respondent in respect of the petitioner's land in Survey No.669/2 and 3 of an extent of 0.46.0 hectares (approximately) 1.20 acres of lands in Vannikonenthal Village, Sankarankovil Taluk, Tirunelveli District stands lapsed in terms of the Section 24(1) and (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

For Petitioner : Mr.V.Vijaya Shankar

For Respondents : Mr.C.Ramesh

Special Government Pleader

COMMON JUDGMENT

All the above three matters are in relation to the same acquisition proceedings initiated by the Acquisition Authority in respect of the subject property belonging to the petitioner for the purpose of grant of house patta to the members of the Adi-Dravidar community. According to the petitioner, she was not aware of the acquisition proceedings as the notification issued under the Land Acquisition Act, 1984 had not been properly served or brought to the notice of the petitioner. According to her, she had come to know about the proceedings only somewhere in 2011 and on the basis of the advice, she had approached Civil Court and filed O.S.No.368 of 2011 before the Principal District Munsif Court, Sankarankovil, primarily to declare the acquisition proceedings as null and void.

2.The suit was dismissed on 08.11.2013 on the ground that the Civil Court had no jurisdiction to declare the land acquisition proceedings as null and void. As against the dismissal of the suit, the petitioner filed appeal in A.S.No.15 of 2014 before the Sub Court, Sankarankovil which was also dismissed on the same ground on 28.10.2014. The petitioner, thereafter, filed a second appeal in S.A.(MD)No.496 of 2016 before this Court and the same is pending.

3.The petitioner has also simultaneously filed W.P.(MD)No.6061 of 2018 challenging the proceedings of the second respondent therein dated 02.09.1997 assigning the petitioner's land after



acquisition to respondents 3 to 19 herein on the ground that these private respondents were not entitled to be granted patta since most of them own houses in the village and by playing fraud upon the authority, they had obtained patta illegally.

4.The petitioner subsequently has also filed W.P.(MD)No.19091 of 2018 declaring the land acquisition proceedings dated 18.03.1992, 23.06.1993 and 01.12.1993 in respect of the petitioner's land in Survey Nos.669/2 and 3 of an extent of 0.46.0 hectares (approximately) 1.20 acres of lands in Vannikonenthal Village, Sankarankovil Taluk, Tirunelveli District, stands lapsed in terms of Section 24(1) (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. All the three matters are pending and notice is ordered to the respondents.

5.From the above, it could be seen that the petitioner is a same person who has approached this Court by way of second appeal as a consequence of dismissal of the suit and the first appeal filed by her against the same acquisition proceedings which is the subject matter of this Writ Petition. The Writ Petition (MD) No.6061 of 2018 is a challenge to the action of the official respondents in granting house patta to the members of the Adi-Dravidar community though the persons who had been granted patta had enough means and property to support them.

6.The Writ Petition (MD)No.19091 of 2018 has been filed after passing of the new enactment in 2013, particularly, with reference to Section 24 of the Act.

7.When the above matters were taken up for hearing, Mr.V.Vijaya Shankar, learned Counsel for the petitioner would at the outset submit that as far as the second appeal is concerned, the same is not pressed for the reason that the Civil Court has no jurisdiction to declare the land acquisition proceedings as null and void and unfortunately, the petitioner had pursued a wrong remedy up till this Court. Further, in view of the institution of the Writ Petitions the pending S.A.(MD)No.496 of 2016 is not pressed and therefore, he would request to dismiss the same as not pressed.

8.This Court in response to the submission of the petitioner and also the fact that the petitioner has been barking up a wrong tree all along for the relief claimed by her would accept the request and the Second Appeal (MD) No.496 of 2016 stands dismissed as not pressed.



9.As regards the Writ Petition (MD)No.19091 of 2018 is concerned, the learned Counsel submitted that at the time when the Writ Petition was filed, the law was different and in order to take advantage of the then prevailing legal position, the Writ Petition was filed. However, during the pendency of this Writ Petition, a Constitution Bench of the Hon'ble Supreme Court reported in **(2020) 8 SCC 129 (Indore Development Authority v. Manoharlal and others)** has completely reversed the principle which was holding the field till the Constitution Bench has laid down the law. The Hon'ble Supreme Court has held that in respect of Section 24(2) of the new enactment, "or" has to be read as "and". In which case, both compensation should not have been paid and possession should not have been taken unlike the earlier interpretation of Section 24(2). In the circumstances, the learned Counsel fairly submitted that the petitioner may not have a case in W.P.(MD)No.19091 of 2018. Therefore, he would submit that even this Writ Petition may be dismissed as not pressed and therefore, the same is dismissed as not pressed.

10.Now, coming to the remaining Writ Petition viz., W.P.(MD) (MD)No.6061 of 2018, the learned Counsel would submit that the petitioner has all along been kept in the dark about the acquisition proceedings right from 1992-1993 and when she came to know about the acquisition proceedings in 2011, she had laid suit in O.S.No.368 of 2011 which was dismissed and the first appeal filed against the dismissal of the suit in A.S.No.15 of 2014, was also dismissed and thereafter, the second appeal has been filed and the same is pending and now that the same is dismissed as not pressed and the only hope to the petitioner is this Writ Petition.

11.According to the learned Counsel that the purpose of acquiring the property for grant of house patta to the Adi-Dravidar people has been lost, as the petitioner has reliable information that most of the allottees have sufficient income and many of them also own immovable properties in the village. Unfortunately, without proper application of mind, the respondents 1 and 2 have granted patta to respondents 3 to 19.

12.The learned Counsel would implore this Court that without delving into the merits of the case, a direction may be issued to the first and second respondents to re-consider the entire issue of grant of patta by conducting a proper enquiry and to ascertain whether the private respondents were truly deserving for the said benefit.

13.The learned Counsel would submit that the actual possession is still with the petitioner and she has been cultivating the same as on date. Only recently, the petitioner has come to know that



some construction work happening in her land and therefore, she has approached this Court in these two Writ Petitions. In any event, the learned Counsel would submit that the petitioner may be heard and orders may be passed on a thorough consideration of the entitlement of the respondents 3 to 19 so that the lands which was acquired from the petitioner ought not to be allotted to undeserving persons, by depriving the petitioner of her constitutional right to own her property.

14.The learned Counsel would also draw reference to Revenue Standing Order-21 which reads as under:

"In assigning lands for house sites care should be taken to see that land is not granted to persons already possessing enough land for their reasonable requirements and that preference is given to those who own no house site and whose family's income does not exceed Rs.12,000/- per annum."

According to the above, it is incumbent upon the authority to hold an enquiry as to the entitlement of the allottees and only then, the allotment or assignment could be given, such an exercise appeared to have not been carried out in this case.

15.Mr.C.Ramesh, learned Special Government Pleader, appearing for the respondents 1 and 2 would submit that the assignment had been given in 1997 itself to all the private respondents and at that time, a proper verification was made and assignments granted. According to the learned Special Government Pleader that what the petitioner could not achieve directly she is now seeking to achieve indirectly by seeking direction to the official respondents to revisit the entire assignments.

16.According to the learned Special Government Pleader, the petitioner having chosen a wrong remedy, she has to be held entirely responsible for the passage of more than two decades and therefore, she cannot now seek reconsideration of the entire issue at this distance of time. The learned Special Government Pleader would also submit that the land was in fact classified as Adi-Dravidar natham in 1991 itself and also that the acquisition proceedings were subjected to challenge by the so-called land owners in W.P.(MD)No.11472 of 2003 but the same was dismissed. Therefore, the petitioner has lost her right to seek reconsideration of the entire issue, after the assignments were made more than two decades before.

17.As regards the private respondents are concerned, though notices have been served and acknowledged and the names have also been printed in the cause list, they are not represented by any Advocate and nor the private respondents have chosen to appear in person



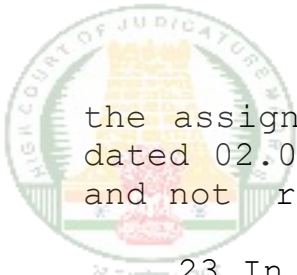
18. Considered the submissions of the learned Counsel for the petitioner and the learned Special Government Pleader for the official respondents.

19. As regards the present Writ Petition is concerned, the petitioner completely claims ignorance of the acquisition proceedings initiated against her way back in 1992 and 1993 and she had appeared to have approached the Court only in 2011 after learning about the same then. Even then, she did not choose to approach proper remedial forum but continued her wrong pursuit in three successive civil proceedings, by filing a suit and then first appeal and thereafter Second Appeal fruitlessly resulting in passage of more than two decades. Now on her behalf an extraordinary request has been made to this Court to cancel the assignment given to the private respondents 3 to 19 which assignment was given way back in 1997. From 1997 and till date, much water must have flowed under the bridge and this Court is not informed as to what is the exact status of the land owned by the petitioner and acquired by the authorities as on date. Therefore, this Court initially had its own misgiving about the issuing any direction as requested by the learned Counsel.

20. However, the learned Counsel for the petitioner persuaded this Court that the petitioner being a illiterate lady was misled into filing of civil cases and in the absence of proper guidance and advice, she had lost her valuable opportunity of approaching the proper forum towards challenging the acquisition proceedings.

21. Further, as ill-luck could have it on the basis of the present decision of the Constitution Bench of the Hon'ble Supreme Court the law which was in her favour then has since been reversed and the attempt by her to take advantage of Section 24(2) as it interpreted then has now to be discountenanced and consequence of which, the Writ Petition filed by her in W.P.(MD) No.19091 of 2019 has been dismissed as not pressed. According to the learned Counsel, at least the petitioner may be given a last opportunity to convince the authority that her land has not been used for the specific purpose for which it was acquired and it was allotted to undeserving private respondents.

22. This Court, in consideration of the above passionate request placed on behalf of the petitioner, is of the view that no prejudice or legal injury would be caused to any one if the second respondent is directed to consider the issue only on the aspect of whether these private respondents namely respondents 3 to 19 were entitled to the grant of house pattta on the basis of the scheme formulated while acquiring the lands from petitioners and other owners. At the same time, this Court is not inclined to set aside



the assignment made to these private respondents vide proceedings dated 02.09.1997, though these private respondents had been served and not responded.

23. In the result, S.A.(MD)No.496 of 2016 and W.P.(MD)No.19091 of 2018 are dismissed as not pressed and W.P.(MD)No.6061 of 2016 is disposed of with the following directions:

(i) The respondents 1 and 2 are directed to consider the request of the petitioner and conduct an enquiry and ascertain whether the private respondents, namely, 3 to 19 herein or any others who had been the beneficiaries of the grant of house patta from out of property acquired from the petitioner were truly entitled to such benefit in terms of the scheme formulated by the Government in this regard.

(ii) It is also open to the petitioner to submit any representation to the authorities and the authorities are directed to provide reasonable opportunity to the petitioner as well as the private respondents and other allottees and after conducting an enquiry in respect of the grievances expressed by the petitioner, the respondents 1 and 2 are directed to pass orders within a period of eight weeks from the date of receipt copy of this order.

(iii) The respondents 1 and 2 are also directed to communicate a copy of the order to be passed on completion of the enquiry, to the petitioner forthwith. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

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/ /2021

Sub Assistant Registrar(CS)

SRM

To

1. The Secretary,
Adi - Dravidar and Tribal Welfare Department,
Fort St. George, Chennai - 9.

2. The Commissioner,
Adi - Dravida Welfare Department,
Chennai.



3. The District Collector,
Tirunelveli District.

4. The Special Tahsildar,
(Adi-Dravidar and Tribal Welfare Department)
Sankarankovil, Tirunelveli District.

+1 CC to M/s.SPL GP (SR-10869[F] dated 12/03/2021)

+2 CC to Mr.VIJAY SHANKAR, Advocate SR.No. 13538 & 13539

Judgment delivered in
S.A.(MD)No.496 of 2016, W.P.(MD)Nos.6061 and 19091 of 2018
25.03.2021

PK(CO)

TR(17.05.2021) 9P 8C