



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2022

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.12799 of 1985

R. Palaniswamy

.... Petitioner

Versus

1. The State of Tamil Nadu
represented by its Commissioner and
Secretary to the Govt.,
Housing & Urban Development
Department,
Fort Saint George,
Madras - 9.

2. The Special Tahsildar,
Land Acquisition - Housing
Scheme I
Collectorate,
Coimbatore - 18.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorari calling for the records of the 1st respondent in G.O. Ms. No.106, Housing and Urban Development dated 05.02.1982 and quash the same insofar as it relates to the lands owned by the petitioner herein, in S. No.58/1 & 58/4 in Vadavalli Village, Coimbatore Taluk & District.

For Petitioner : Mr.T.R.Rajagopalan

For Respondents : Mr.G. Krishna Raja,
Addl. Govt. Pleader

ORDER

Petitioner has come up with this writ petition to quash the G.O. Ms.No.106, Housing and Urban Development dated 05.02.1982 issued by the 1st respondent as the lands in survey Nos.58/1 and 58/4 in Vadavalli Village, Coimbatore Taluk and District.

Brief facts leading to filing of this writ petition are as follows :



2. The lands pertaining to Survey Nos.58/1 and 58/4 of Vadavalli Village, Coimbatore Taluk were allotted to the petitioner by way of partition deed in the year 1971. Subsequently, G.O. Ms. No.106, Housing & Urban Development, dated 05.02.1982 has been issued and the lands mentioned supra were acquired under the Land Acquisition Act, 1894 as dry lands. It is the further averment of the petitioner that only at the time of publication of Declaration under Section 6 of the Land Acquisition Act, 1894, the petitioner came to know about the acquisition proceedings. It is the further averment of the petitioner that without following the procedure contemplated under the said Act, impugned G.O. Ms. No.106 has been passed, which is contrary, hence this writ petition to quash the said G.O.

3. Learned counsel appearing for the petitioner submits that the subject land belonging to the petitioner have been acquired and the entire acquisition proceedings are contrary to the provisions of the Land Acquisition Act and the rules and hence, he prays before this Court to quash the said G.O.

4. Mr.G. Krishna Raja, learned Additional Government Pleader vehemently opposes the contention raised by the learned counsel for the petitioner and he submitted that the acquisition proceedings have been issued by following due procedure contemplated under the law. He further submitted without challenging the 6 declaration, the petitioner has filed this writ petition, which is arbitrary in nature and hence, he prays for dismissal of this writ petition.

5. This Court bestowed its best attention to contentions advanced by the learned counsel on either side and perused the materials available on record.

6. On a perusal of materials placed before this Court, it is not in dispute that the lands belonging to the petitioner have been acquired under the Land Acquisition Act. Admittedly, objections were raised by the purchasers for issuance of 4(1) notification under the Land Acquisition Act, 1804. It is to be noted that the said 4(1) notification vide G.O. Ms. No.106, Housing and Urban Development has been issued on 05.02.1982 by the 1st respondent, further to which Declaration under Section 6 of the Act has also been issued. However, the grievance of the petitioner is that the provisions of Section 4 (2) and Section 3 (b) of the Act have not been complied with. It is to be pointed out that the acquisition is of the year 1985 and Declaration has also been issued, the date of which has not been mentioned in the petition. However, the fact remains that Declaration u/s 6



has been issued, which has not been challenged by the petitioner. The petitioner without challenging the Declaration issued u/s 6 of the Act, has directly challenged the Notification issued under Section 4(1) of the Act, that too after the Declaration has been effected in the Government gazette. Having slept over the matter knocking the doors of this Court belatedly to quash the said G.O. Ms. No.106 is wholly unjustified and impermissible, that too without challenging the Declaration issued u/s 6. Therefore, no interference is warranted with the impugned G.O. passed by the 1st respondent.

7. For the reasons aforesaid, this writ petition is devoid of merits and, accordingly, the same is dismissed. However, liberty is granted to the petitioner to work out the remedy in the manner known to law. No costs.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

vsi2

To

1. The Commissioner and
Secretary to the Govt.,
State of Tamil Nadu
Housing & Urban Development
Department,
Fort Saint George,
Madras - 9.

2. The Special Tahsildar,
Land Acquisition - Housing
Scheme I
Collectorate,
Coimbatore - 18.

+1cc to Government Pleader SR.No.9874

W.P. No.12799 of 1985

NK(CO)
GMY(10/03/2022)