



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.272 of 2022

Rukmani Soundararajan

.. Appellant

Vs

1. The Secretary to Government,
Government of Tamilnadu,
Department of Backward Classes & Most Backward
Classes & Minorities Welfare (BCII),
Fort St. George,
Chennai-600 009.

2. The Special Tahsildar,
Adi Dravidar Welfare,
Dharmapuri.

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 10.11.2021 made in W.P.No.1081 of 2010.

Prayer in WP.No.1081 of 2010:-

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent in Letter No.7415/BC2 (1) 2009-3 dated 23.12.2009 and to quash the same and direct the first respondent to withdraw the acquisition proceedings in respect of 1.90.5 hectares of land in S.No.578 and another extent of 2.00.5 hectares of land in S.No.579 of Vellegoundanpalayam Village, Dharmapuri Taluk and District on the ground of fraud, contempt of Court committed on the part of the 2nd respondent and malafide on the part of the respondents.

For the Appellant : Mr.N.Sankara Subramanian
for M/s.S.Balaji

For the Respondents : Mr.C.Kathiravan
Spl. Government Pleader (LA)



JUDGMENT

(Delivered by the Hon'ble Chief Justice)

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The appeal has been filed to challenge the judgment dated 10.11.2021 passed by the learned Single Judge dismissing the writ petition.

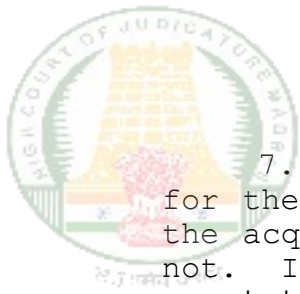
2. The prayer in the writ petition was to withdraw the acquisition proceedings in respect of the lands owned by the appellant in Survey Nos.578 and 579 of Vellegoundanpalayam Village, Dharmapuri Taluk and District.

3. Learned counsel for the appellant has given brief facts of the case in regard to the acquisition proceedings, and otherwise the facts available on record show that the respondents caused a notification under Section 4(1) of the Land Acquisition Act, 1894 [for brevity, "the Act of 1894"] on 8.7.1994, followed by a declaration under Section 6 of the Act of 1894 published in the government gazette on 14.8.1995. The appellant's husband challenged the acquisition proceedings by preferring W.P.No.15121 of 1995. The aforesaid writ petition was disposed of on 25.7.2001 with a direction to the respondent authorities that if the award has not already been passed, they may afford an opportunity of hearing to the appellant's husband.

4. Dissatisfied with the judgment of the learned Single Judge dated 25.7.2001, the appellant's husband filed W.A.No.787 of 2002. Pending the writ appeal, the appellant's husband passed away and the appellant was impleaded as appellant. By judgment dated 8.12.2008, this court dismissed the appeal.

5. It is to be noted that after compliance of the procedure contemplated under Sections 9(1), 9(3) and 10 of the Act of 1894 by calling for objections vide notice dated 11.9.1996, the award was passed on 26.3.1997 with due approval of the respondent authorities. When compensation amount was not received by the land owner, the amount was deposited in Sub Court, Dharmapuri, on 19.5.2000.

6. The appellant yet made a representation for compliance of the judgment dated 25.7.2001 after lapse of several years, though in the meantime not only possession of the land was taken over, but even allotment of the land in favour of the beneficiaries was made with issuance of pattas. It is the case of the appellant that she remains in possession of the land as on date, because no award pursuant to the acquisition of land was passed within the statutory period of two years contemplated under Section 6 of the Act of 1894.



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7. To reconfirm the statement aforesaid, learned counsel for the appellant was asked as to whether the award pursuant to the acquisition proceedings under the Act of 1894 was passed or not. It was reaffirmed that no award was passed pursuant to the acquisition proceedings.

8. A perusal of the judgment qua the facts available on record in reference to the counter filed by the non-appellant shows that the award was passed on 26.3.1997 itself, much prior to the judgment dated 25.7.2001, which was affirmed on appeal vide judgment dated 8.12.2008. The compliance of the judgment has been sought suppressing all those material facts and when the appellant, in fact, is not in possession of the land. The appellant has not approached this court with clean hands. The fact that the award was passed on 26.3.1997 was categorically stated by the respondent authorities in the counter filed in the writ petition. Therefore, there was no reason to seek compliance of the direction given in the judgment dated 25.7.2001, as the award was passed almost four years prior to the date of judgment.

9. It is also a fact that after the award was passed, the compensation amount was not received by the land owner and it was deposited in the court and, otherwise, the appellant has not shown any ground to challenge the acquisition proceedings.

10. When the appellant was in the know of all the relevant facts and yet preferred an appeal, it is the bounden duty of the advocate representing the appellant to state that the award has been passed, but despite repeated queries raised by the court, learned counsel for the appellant stated that the award has not been passed.

11. It is evident from the judgment dated 10.11.2021 under challenge that the land acquired was allotted to 252 beneficiaries and pattas were also issued in favour of them. Despite the said factual finding recorded in the impugned judgment, the appellant, without controverting the said fact, preferred this appeal claiming to be in possession of the land as on date.

12. Taking note of the overall facts, we do not find any error in the judgment of the learned Single Judge dismissing the writ petition in regard to acquisition proceedings settled much prior to the date of disposal of the first writ petition on 25.7.2001, followed by the disposal of the writ appeal on 8.12.2008.

13. For the foregoing reasons, the appeal is dismissed. However, looking to the conduct of the appellant cost assessed



at Rs.25,000/- is imposed. The costs shall be paid by the appellant to the Tamil Nadu State Legal Services Authority within four weeks from the date of receipt of a copy of this order.

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14. The Registrar (Judicial), High Court, Madras is directed to ensure compliance of payment of costs within the stipulated time and if payment of costs is not made, the disposed of writ appeal may be listed again before this court to take appropriate proceedings in the matter.

Sd/-
Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

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To:

1. The Secretary to Government,
Government of Tamilnadu,
Department of Backward Classes & Most Backward
Classes & Minorities Welfare (BCII),
Fort St. George,
Chennai-600 009.
2. The Special Tahsildar,
Adi Dravidar Welfare,
Dharmapuri.

Copy to:

1. The Registrar Judicial,
High Court, Madras-104.
2. The Assistant Registrar,
Appellate Side,
(Judicial Department),
High Court, Chennai-104.
3. The Tamil Nadu State Legal Services Authority,
High Court Campus, Chennai-104.
4. The District Collector,
Dharmapuri District,
Dharmapuri.



5. The Subordinate Court,
Dharmapuri.

+1cc to Mr.S.Balaji, Advocate, S.R.No.9769

+1cc to the Government Pleader, S.R.No.10268

W.A.No.272 of 2022

RGN(CO)
SU(25/02/2022)