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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.5829 of 2010

and

W.M.P.No.2 of 2010 & W.M.P.No.1 of 2010

1. G.Sampangi
  2. S.Loganathan
  3. S.Anandan
- ...Petitioners

Vs.

1. The District Collector,  
Vellore,  
Vellore North Arcot District.
  2. The Land Acquisition Officer and  
Special Tahsildar (ADW)  
Vellore.
- ... Respondents

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the entire records in connection with the impugned 4(1) notification of the 1<sup>st</sup> respondent in the Vellore District Gazatte dated 31.12.1996 and the Award No.18/96-97 dated 25.03.1997 of the second respondent and quash the same and consequently forbearing the respondents from interfering with the possession and enjoyment of the lands of the petitioners in S.No.425/1, in Agaram Subbanaidu Palayam Village, Vellore Taluk, under the pretext of enforcing the impugned 4(1) notification dated 30.12.1996 of the first respondent or any other proceedings.

For Petitioners : Mr.M.Sriram

For Respondents : Mr.M.Muthusamy,  
Government Advocate



## O R D E R

The petitioner has filed this Writ Petition for quashment of the impugned 4(1) notification issued by the 1<sup>st</sup> respondent and consequently forbearing the respondents from interfering with the possession and enjoyment of the lands of the petitioners.

2. The case of the petitioners is that the 1<sup>st</sup> petitioner owned the property comprised in S.No.425/1 to an extent of 2.50 acres and later on, the same was settled in favour of the 2<sup>nd</sup> and 3<sup>rd</sup> petitioners, who were the sons of the 1<sup>st</sup> petitioner. While so, 4(1) notification was issued under the Central Act in respect of the said lands and objections were raised on the side of the petitioners. Thereafter, a report was sent by the Special Tahsildar, Adi Dravidar Welfare dated 05.10.1990 rejecting the objections and proposing to acquire the lands whereby, the Declaration under Section 6 in respect of the lands were made in G.O.3D No.431 Adi Dravidar and Tribal Welfare [ADW-VI] dated 27.03.1991 and consequential award was also passed dated vide order dated 25.03.1997. Challenging the same, this Writ Petition has been filed.

3. The learned counsel for the petitioners submitted that on earlier occasion, the very same land was acquired by the respondents invoking the provisions of the Central Act and the said land acquisition proceedings were confirmed by this Court in W.P.No.7899 of 1993, by the said proceedings, 11 cents of land belonging to the petitioner vested with the Central Government and the petitioner was no longer owner of the acquired property. However, the very same property was subsequently acquired by the respondents invoking the provisions of Tamil Nadu Acquisition of Land for Harijan Welfare Act, which is not sustainable. He further submitted that the respondents are well known with the fact that right from the beginning, the petitioners were residing at Bangalore and not in the village, where the land acquisition proceedings were initiated and to that effect the 1<sup>st</sup> petitioner also disclosed his address in the affidavit filed in W.P.No.7899 of 1993. However, without issuing any prior notice to the petitioners, the respondents concluded the land acquisition proceedings by way of affixture which is contrary to the Rule 3(1) of the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act, 1978. Accordingly, he prays for allowing the Writ Petition.



4. The learned Government Advocate appearing for the respondents submitted that the disputed land was acquired under the provision of Land Acquisition Act for providing link roads, for which the acquisition procedure was followed by the respondents. Since, the petitioner is not a resident of the village, notice was served by way of affixture and the same was certified by the Village Administrative Officer. Therefore, the prayer sought for by the petitioner cannot be conceded. Hence, he prays for dismissal of the petition.

5. On perusal of the materials available on records, it is discernible that the land of the petitioner to an extent of 11 cents was acquired under the Central Act by issuing 4(1) notification and consequential award was passed. It is relevant to point out that once award was passed, the acquired land would vest with the Government. To that effect, it is evident that even on earlier occasion, the disputed land was acquired by the respondents invoking the provisions of the Central Act and the said land acquisition proceedings were confirmed by this Court in W.P.No.7899 of 1993.

6. In view of the above facts, this Court is unable to understand the subsequent implication of land acquisition proceedings under State Act as against the 1<sup>st</sup> petitioner, since the 1<sup>st</sup> petitioner is not the owner of the disputed 11 cents. Further, the counter affidavit as well as the report forwarded by the Tahsildar to the District Collector in which, it is clearly stated that the land owner was residing at Bangalore and his residential address was not known to the respondents and the 4(2) notice was served on the land owner/1<sup>st</sup> petitioner by way of affixture in his land. However, the fact remains that the respondents are very well aware of the fact that the petitioner was a resident of Bangalore and not in the present locality and have therefore not issued notice in accordance with law.

7. The issue arise in the present case is that whether while initiating the land acquisition proceedings, Rule 3(1) of the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Rules, 1978 was followed by the respondents or not. The said procedure is contained in Rule 3 which is as follows:

"3. Procedure for acquiring land: (i) The District Collector or the officer authorised by him in this behalf shall serve a show cause notice in Form I under Sub-Section (2) of Section 4 individually on the owner or on all persons interested in the land to be acquired. If the owner or any other person interested in the land resides elsewhere than where the land is



situated, the show cause notice shall be sent by a registered post (acknowledgement due) to the last known address of the owner or any other person interested."

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8. From the factual matrix, it is clear that in the present case, the authorised officer was well aware of the fact that the 1<sup>st</sup> petitioner is a resident of Bangalore and not residing in the village, where the land acquisition proceedings were initiated. Such being the case, without issuing show cause notice through registered post to the land owner, the land was acquired by the respondents merely by issuing 4(1) notification which is not sustainable.

9. In view of the above, it clearly discloses a total non-application of mind of the Government officials, without following the procedure contemplated in Rule 3(1) of the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act, 1978.

10. Hence, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

SD/-  
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

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To

1. The District Collector,  
Vellore,  
Vellore North Arcot District.
2. The Land Acquisition Officer and  
Special Tahsildar (ADW) Vellore.

+1cc to Mr.M.Sriram, Advocate Sr.11016  
+1cc to the Government Pleader Sr.11091

W.P.No.5829 of 2010  
and

W.M.P.No.2 of 2010 & W.M.P.No.1 of 2010

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srg 24/03/2022