



W.A.No.804 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2022

CORAM :

THE HON'BLE MR.JUSTICE T.RAJA

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

W.A.No.804 of 2019

Ranganayakiammal

.. Appellant

Vs.

1. Government of Tamil Nadu
Rep. by its Secretary
Department of Adhi Dravidar Welfare
Secretariat
Chennai 600 009.

2. The District Collector
Coimbatore District
Coimbatore 641 018.

3. The Special Tahsildar (Land Acquisition)
Adhi Dravidar Welfare
Coimbatore.

4. The Executive Engineer
Tamil Nadu Slum Clearance Board
Coimbatore Division
Coimbatore.

.. Respondents



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Prayer: Appeal under Clause 15 of the Letters Patent against the order dated 28.01.2019 made in W.P.No.5169 of 2018.

For the Appellant : Mr.AR.L.Sundaresan
Senior Counsel
For Mr.P.K.Rajagopal

For the Respondents : Mr.R.Shunmugasundaram
Advocate General
Assisted by
Mrs.C.Sangamithrai
Special Government Pleader
for Respondents 1 & 3

Mrs.Geetha Thamaraiselvan
Special Government Pleader
for Respondent-2

Mr.R.V.Babu
for Respondent-4

JUDGMENT
(Delivered by T.Raja,J)

The appellant herein has initiated second round of litigation by filing a writ petition in W.P.No.5169 of 2018 for issuance of a writ of Mandamus under Article 226 of the Constitution of India to forbear the respondents from taking possession of the land



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measuring 4.54 acres equivalent to 1.88.08 hectares in S.F.No.296/2 of Kuniyamuthur Village of Coimbatore Taluk and District which were acquired by the respondents under the provisions of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act and the same was dismissed by the learned Single Judge, resulting in the filing of this appeal.

2. The facts which led to the filing of the writ appeal are as under:

The appellant is the owner of the dry lands of an extent of 4.64 acres covered in S.F.No.296/2 of Kulathupalayam Village of Kuniyamuthur, Coimbatore District. The third respondent issued a show cause notice to the appellant, under Rule 3(1) of the Rules made under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (for brevity "the Act") calling for the objection of the appellant and to appear for an enquiry before the third respondent on 08.10.1997 with regard to her objection against the proposed acquisition of land.



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3. The appellant attended the enquiry and submitted her objections for acquisition on the ground of necessity of her land for running the stone crushing industry and on the ground that rain water up to eight feet would be stagnated in the pond located near to her land and therefore, the land in question would not be fit for building any residential units and also it would be unsafe for raising any residential premises. It was also stated that a large extent of poramboke lands belonging to the Government was available in the surrounding area near Arivoli Nagar and MGR Nagar which would be more suitable for the purpose.

4. The objections of the appellant were overruled and the notification under Section 4(1) of the Act was issued by the second respondent on 02.07.1998, followed by the notice under Section 5(1) of the Act for an enquiry, against which, the appellant preferred a writ petition in W.P.No.17198 of 1998 to quash the said notification issued under Section 4(1) of the Act.

5. A counter was filed by the respondents stating that the



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appellant had sold the land of an extent of 9.72 cents to Tamil Nadu Evangelical Lutheran Church, Tiruchirapalli vide Document No.2797/92 dated 13.03.1992 and therefore, there was no truth in her objection and that there was no suitable land available for the accommodation of 115 Adi Dravidars.

6. In view of the fact that there was no suitable poramboke land available for accommodating 115 Adi Dravidars and considering the stand taken by the respondents, the writ petition was dismissed by order dated 27.11.2006.

7. After the lapse of almost 11 years from the date of dismissal of the writ petition, the appellant filed the writ petition in W.P.No.5169 of 2018 on the ground that the respondents, keeping quiet for nearly 11 years without utilising the land, had proposed to utilise the land for raising multi storied building, by changing the purpose for which the land was acquired. The learned Single Judge, after taking into consideration the submissions of both the parties, dismissed the writ petition by order dated 28.01.2019. Hence, the



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present appeal.
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8. Mr.AR.L.Sundaresan, learned Senior Counsel appearing for the appellant submitted that when the land acquired in question has not been utilised for the purpose for which it was acquired, the claim of the appellant can be brought under Section 24(2) of the new Act, which has come into effect from 01.01.2014, for the purpose of getting higher compensation.

9. Learned Senior Counsel further submitted that although the respondents have passed the award on 12.03.1999, the award amount has not been tendered to the appellant and therefore, the appellant is entitled to get more compensation by virtue of Section 24(2) of the Act.

10. Mr.R.Shunmugasundaram, learned Advocate General appearing for the respondents submitted that though the land was acquired for providing house sites or tenements to the weaker section of the people and award was also passed on 12.03.1999 and



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the entire award amount was deposited in the Sub Court on 30.03.1999, in view of the litigations pending and filed by the appellant, the respondents could not utilise the land for the purpose for which it was acquired. However, the respondents have proposed to utilise the said land for constructing multi storied building to benefit nearly 720 Adi Dravidar families, while the earlier proposal was to benefit only 115 Adi Dravidars.

11. Learned Advocate General further submitted that after passing of the award on 12.03.1999 in Award No.6 of 1998-99, the compensation amount of Rs.9,85,052/- was deposited in the Principal Sub Court, Coimbatore on 30.03.1999. But, the appellant had not filed any application to receive the compensation. Hence, it is not open to her to say that the respondents have failed to tender the compensation for the land acquired when it is writ large on record vide paragraph 6 of the counter affidavit filed by the respondents before the learned Single Judge.



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12. We have considered the submissions made on behalf of both the parties.

13. Admittedly, the acquisition proceedings were completed as early as 1997 and thereafter, possession was also taken by the respondents. In view of the litigations pending and filed/initiated by the appellant, the respondents could not proceed with the purpose for which the land was acquired. Now, the respondents are taking steps to construct a multi storied building to provide tenements to 720 houseless poor persons of the weaker section. In this factual scenario, it is not open to the appellant, after lapse of more than 20 years, to state that possession of the land has been illegally taken from her.

14. That apart, the appellant had filed W.P.No.17198 of 1998 on similar grounds and suffered dismissal by order dated 27.11.2006. Further, it is an admitted fact, as stated in the counter affidavit filed by the respondents before the learned Single Judge, that after the award was passed on 12.03.1999, the respondents



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have deposited the entire amount of Rs.9,85,052/- in the Principal Sub Court, Coimbatore on 30.03.1999 and therefore, the appellant is not entitled to more compensation under Section 24(2) of the new Act.

15. In the light of the discussions aforesaid, we do not find any reason to cause interference with the order of the learned Single Judge. Accordingly, the writ appeal fails and is dismissed. There will be no order as to costs. Consequently, CMP No.6348 of 2019 is also dismissed.

(T.R., J.) (P.D.A., J.)
19.09.2022

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To:

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Chennai 600 009.
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T.RAJA,J,
and
P.D.AUDIKESSAVALU,J

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