



W.P.No.9696 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.9696 of 2015 and
MP.No.2/2015

K.Velusamy

.. Petitioner

Vs.

1.The District Collector,
Erode District, Erode.

2.The Special Tahsildar,
Adi Dravida Welfare,
Erode Taluk and District.

3.S.Thangavel

.. Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying of issuance of Writ of Certiorari Calling for the records relating to the notification issued under Sec. 4(1) of Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act (Act 31/78) published in the Government Gazette dated 01.11.2004 and consequential award passed by the 2nd respondent in Award No.3/2005/A dated 04.03.2005 and quash the same.

For Petitioner : Mr.Bharathidasan for Mr.P.T.Rama Devi

For RR1 & 2 : Mr.C.Sangamithirai
Special Government Pleader



W.P.No.9696 of 2015

ORDER

WEB COPY

The petitioner has filed this petition for issuance of writ of Certiorari to call for the records relating to the notification issued under Sec. 4(1) of Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act dated 01.11.2004 and consequential award passed by the 2nd respondent in Award No.3/2005/A dated 04.03.2005 and quash the same.

2. The case of the petitioner is that he is the owner of an agricultural land in S.F.No.120/3, 120/4 in Avudaiyaparai Village, Erode Taluk and District, totalling 9 cents. While so, recently the respondents 1 and 2 herein tried to interfere with his property and thereafter on enquiry, the petitioner came to know that his lands were acquired by the respondents under the Tamil Nadu Acquisition of land for Harijan Welfare Scheme Act 1978, for providing burial ground to Adi Dravidars of Avudaiyapari Village and immediately the petitioner sought for particulars under Right to Information Act and the 2nd respondent sent a communication stating that the above land were acquired from one Thangavel, the 3rd respondent herein. After receipt of the above information, the petitioner came to know that a notification under Section 4(1) of the Act was published by the 1st



W.P.No.9696 of 2015

respondent in the name of the 3rd respondent herein, who is not at all connected with the above said land and an award was also passed in the name of the 3rd respondent on 04.03.2005 for a total extent of 0.21.0 hectares. However, subsequently the petitioner after obtaining copy of the award, came to know that even though, the Village Administrative Officer appeared for the award enquiry and informed the 2nd respondent that the petitioner's name was also found place in the village records, without considering the said factual aspect, the respondents has passed the award in favour of the 3rd respondent and further without issuing any notice or whatsoever, the respondent has initiated the acquisition proceedings and issued a declaration. Hence, challenging the acquisition proceedings and award proceedings, the petitioner is before this Court.

3. The learned counsel appearing for the petitioner the respondents 1 and 2 had failed to consider that in the revenue records, the petitioner's name alone found place and it is also confirmed by the VAO during the award enquiry proceedings, despite the same, without issuing any notice to the petitioner, but instead issued the same in the name of the 3rd



W.P.No.9696 of 2015

respondent, who is no way connected with the land, the respondents acquired the land depriving the petitioner's valuable right to the property and hence the impugned acquisition proceedings initiated by the respondents 1 and 2 is per se illegal and arbitrary and prays for allowing of this petition.

4. The learned Special Government Pleader appearing for the official respondents submitted that on 01.11.2004 Section 4(1) notification was issued and award was passed on 04.03.2005 and since the property belongs to the third respondent, the respondents 1 and 2 paid the compensation amount of Rs.1,68,935/- to the 3rd respondent and the possession was also taken on 06.05.2005. Since the revenue records shows that the 3rd respondent is the owner of the property, notice was sent to the 3rd respondent herein. Further it is submitted that when the notification was gazatted and it was published in the local newspaper, the petitioner ought to have made an objection, however he failed to do so and filed the above writ petition after a lapse of 10 years, which is unsustainable and prays for dismissal of this petition on the ground of delay and latches.



WEB COPY



W.P.No.9696 of 2015

5. This Court has carefully considered the rival submissions and also perused the materials available on record.

6. Though admittedly the petitioner is the owner of the property in respect of 9 cents in S.F.No.120/3, 120/4 in Avudaiyaparai Village, Erode Taluk and District and further revenue records also stands in the name of the petitioner, Section 4(2) notice was not issued in the name of the petitioner, instead it was issued in the name of the 3rd respondent and no opportunity was given to the petitioner. As rightly submitted by the learned counsel appearing for the petitioner, in the award enquiry, it is also confirmed by the VAO that in the revenue records, the petitioner's name alone found place, however the respondents failed to provide opportunity to the petitioner, which is not sustainable. Be that as it may, admittedly the land was acquired during the year 2004 and the award proceedings was passed in the year 2005 and the possession was also taken and furthermore the land was utilised for the purpose for which it was acquired and hence, this Court at



W.P.No.9696 of 2015

this later stage could not interfere in the impugned notification. However, it appears that the compensation amount was not disbursed in favour of the petitioner, instead it has been disbursed in favour of the 3rd respondent. Though compensation was paid to the 3rd respondent, the petitioner as a owner of the property is entitled to receive the same, however he has not received any compensation till date. Hence, this Court without interfering with the impugned Government Order, directs the 1st respondent to assess and disburse the compensation amount to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order.

7. This Writ Petition is disposed of with the above terms. No costs. Consequently connected miscellaneous petition is closed.

09.11.2022

sk



W.P.No.9696 of 2015

To

1.The District Collector,
Erode District, Erode.

2.The Special Tahsildar,
Adi Dravida Welfare,
Erode Taluk and District.



WEB COPY



W.P.No.9696 of 2015

M.DHANDAPANI.J.

Sk

W.P.No.9696 of 2015

09.11.2022