



W.P.No. 16403 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No. 16403 of 2022

and

W.M.P.Nos.15698, 15700 and 15702 of 2022

1.Ammasi
2.P.Subramani
3.K.Kanagamani

... Petitioners

Versus

1. The State of Tamil Nadu
Represented by its Secretary to Government,
Adi-Dravidar & Tribal Welfare Department,
Fort St. George,
Chennai-600 009.
2. The District Collector
Salem District
Salem.
3. The District Adi-Dravidar Welfare Office
Collectorate Campus,
Salem, Salem District.
4. The District Revenue Officer,
Salem, Salem District.



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5. The Special Tahsildar,
Adidraavidar Welfare Department
Attur, Salem District.

6. The Revenue Divisional Officer,
Attur, Salem District.

7. The Tahsildar
Pethanayakkanpalayam Taluk
Salem District.

8. V. Kannaiyan

9. Banumathi

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the first respondent to initiate fresh land acquisition to acquire the land comprising in S.No. 329/2B measuring Acre 3.50 cents situated at Yethapur Village, Pethanayakkanpalayam Taluk, Salem District, enable to issue house site patta to the Adidraavidar people based on the petitioner's representation dated 27.12.2021.

For Petitioners : Ms.S.Vinodha

For RR 1 to 7 : Mr.G.Krishna Raja
Additional Government Pleader



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ORDER

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2. The case of the petitioners is that they belong to Scheduled Caste. Originally, one Renulingam was having the property comprised in S.No.329/2 situated at Yethapur Village, Pethanaickanpalayam Taluk, Salem District, measuring acre 4.36 cents, in which, 3.50 cents were acquired by the second respondent/Collector, Salem, under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (TN Act 31/1978) and award was also passed in Award No.20 of 95/96 and subdivision of Patta into 2A & 2B of the above said acre 4.36 cents was also made vide proceedings in ROC.No. 146003/95D13, dated 21.12.1995 which was done for the purpose of allotting free house-site patta to the Adi-



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Dravidar people and necessary Revenue entries were also made in the Revenue Records as "Adi-Dravidar Natham". Since the land owner refused to receive the compensation amount, it was deposited in the Sub Court, Salem.

3. The original owner of the property Renulingam mortgaged the aforesaid property with No.1283 at Yethapur Primary Agricultural Co-operative Bank in the year 1973 and obtained a loan, which was also reflected in the Encumbrance Certificate on the file of the Sub Registrar Office, Pethanayakkampalayam, vide Doc.No.695/1973, which implies that there should not be any alienation or making any further encumbrance till the release of the document. Furthermore, the original land owner Renulingam and his family members sold their property to Kannaiyan and his family members by way of sale deeds registered by way of Doc.Nos.1527/1987, 169/1988, 520/1988 and 1429/1988 of an extent of acre 4.32 cents. It is pertinent to note that the subsequent purchaser, namely, Kannaiyan and Banumathi are not bona-fide purchasers and they are legally not entitled to receive the compensation, as the property under



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acquisition was originally in the name of Renulingam as per the Revenue Records at the time of acquisition, but the said Kannaiyan approached the acquisitioning authorities to include his name as the owner of the property.

4. The acquisitioning Authority also committed a mistake and deposited the award amount in Sub Court, Salem, in the name of Kannaiyan and Banumathi. As per the Revenue Records, the property stands in the name of Renulingam, which is reflected in the Gazette Notification, dated 05.01.1996. But the subsequent purchaser Kannaiyan committed a fraud and entered his name along with his wife Banumathi as the owner of the acquired property and thereby, the award amount was deposited in the name of Kannaiyan and Banumathi. Thereafter, the petitioners have approached the District Collector, Salem to issue Patta to the Adi-Dravidar people, in view of the land acquisition in ROC.No.146003/95/D13, dated 21.12.1995. As on date, the classification of land is mentioned as "Adi Dravidar Natham" in the "A" Register and the land owner Renulingam has discharged and settled the loan and cancelled the mortgage deed by way of Doc.No.1474/2009, dated 25.05.2009.



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5. After cancellation of the mortgage deed, vide

Doc.No.1474/2009 executed by the said Renulingam dated 25.05.2009, he is entitled to sell the property. Therefore, the petitioners have approached the District Collector, Salem to take action on the respondents 8 and 9 to recover the land and to mutate the Revenue Records in favour of the petitioners. Though the petitioners sent several representations to the District Administration by narrating the entire facts explaining the necessity to issue free house-site patta for Adi-Dravidar people in Yethapur Village, and also to take steps for fresh acquisition by due legal compliances and in accordance with law, since no action was taken the petitioners filed W.P.No.26851 of 2021 and this Court, by order dated 16.12.2021, observed that "...the petitioners request for issuance of free house site patta cannot be considered unless the first respondent proceeds with fresh acquisition proceedings". During the hearing of the writ petition, W.P.No.1219 of 2021 was filed by certain individuals for mutation of Revenue Records pertaining to S.No.329/2B which was allowed in favour of the petitioners therein.



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6. Aggrieved by the order in W.P.No.1219 of 2021, the petitioners preferred an appeal against the order and they also made a request to the District Collector, Salem, the land Acquisition Officer and Special Tahsildar (Adi Dravidar Welfare) Attur, Salem, to acquire the land as per the provisions of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 and the petitioners made a representation dated 27.12.2021 to the first respondent to direct the District Collector, Salem and the Land Acquisition Officer and Special Tahsildar (Adi Dravidar Welfare) Attur, Salem, to proceed with fresh acquisition of land comprised in S.No.329/2B, measuring acres 3.50 cents, situated at Yethapur Village, Pethanayakkanpalayam Taluk, Salem District, as per the provisions of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 and also to take immediate steps for issuance of free house-site patta to the Adi Dravidar people, by due legal compliance and in accordance with law. Since the said representation was not considered, the petitioners have come forward with the present Writ Petition.



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7. The learned counsel appearing for the petitioners submitted that, without going into the merits of the case, it would suffice, if this Court issues a direction to the State Government/Respondents 1 to 7 to acquire the land as per the provisions of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 and to allot the same and pass orders within a reasonable time frame that may be fixed by this Court.

8. The learned Additional Government Pleader appearing on behalf of the respondents 1 to 7 submitted that it is the prerogative right of the State Government for acquiring the land after ascertaining the position and the livelihood of the poor persons in the locality, and if the Competent Authority is satisfied it would proceed with acquisition to acquire the land and issue free house-site patta to the Adi Dravidar people by due legal compliance and in accordance with law.

9. On a perusal of the entire records, it is seen that the grievance of the petitioners is that fresh acquisition proceedings should be initiated in respect of the land comprised in S.No.329/2B, measuring Acres 3.50 cents



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situated at Yethapur Village, Pethanayakkanapalayam Taluk, Salem District, and issue free house-site patta to the Adi-Dravidar people, based on the petitioner's representation dated 27.12.2021. It is to be pointed out that the petitioners' family is not vested with any right to seek direction to acquire the land and issue free house-site patta to the Adi-Dravidar people. Acquisition of a particular land is the prerogative right of the State Government and is based on policy decision and this Court cannot grant any affirmative direction to the respondents 1 to 7 to acquire the land, in S.No.329/2B by invoking its inherent powers under Article 226 of the Constitution of India. Further, there is no provision legally to give such a direction to the State to go ahead with such acquisition. Hence, this Court is of the view that the above writ petition is liable to be dismissed.

10. Accordingly, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

30.06.2022

msm
Speaking Order/ Non Speaking Order
Index: Yes/ No

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To
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The State of Tamil Nadu
Adi-Dravidar & Tribal Welfare Department,
Fort St. George, Chennai-600 009.
2. The District Collector
Salem District, Salem.
3. The District Adi-Dravidar Welfare Office
Colletorate Campus, Salem, Salem District.
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5. The Special Tahsildar,
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M.DHANDAPANI, J.

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