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W.P.No.11660 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2022

CORAM
THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.11660 of 2017
and
W.M.P.No.12684 of 2017

Abdulla Ghouse Miyan Sahib,
Rep. by his Power of Attorney & Wife,
Firdhouse. ...Petitioner

Vs.

1. The Secretary to Government,
Social Welfare Department,
Fort St. George, Chennai-09.
2. The District Collector,
Ariyalur District.
3. The District Adi-Dravidar Welfare Officer,
Ariyalur District.
4. The Revenue Officer,
Udayarpalayam, Ariyalur District.
5. The Special Thasildar,
Adi-Dravidar Welfare,
Ariyalur District.
6. The Inspector of Police,
Jayankondam, Ariyalur District. ...Respondents



W.P.No.11660 of 2017

(R1 to R6 amended, vide order dated 20.03.2018 made in WMP.No.7434 of 2018 in W.P.No.11660 of 2017)

WEB COPY

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the entire records of the impugned notice of the 5th respondent in his acquisition proceedings in Na.Ka.A1/953/94 dated 12.04.2017 and quash the same as illegal.

(Prayer amended, vide, order dated 20.03.2018 made in WMP.No.7435 of 2018 in W.P.No.11660 of 2017.)

For Petitioner : Mr.M.Senthil Vadivu

For Respondents : Mr.P.Sathish, AGP

ORDER

The petitioner has filed this Writ petition seeking issuance of a Writ of Certiorarified Mandamus to call for the records of the 5th respondent in respect of the acquisition proceedings in Na.Ka.A1/953/94 dated 12.04.2017 and quash the same as illegal.

2. It is the case of the petitioner that, the property comprised in S.Nos.143/7 & 8 measuring an extent of 20 cents, situated at Jayankondam Village was allotted in his favour, vide partition deed dated 06.02.2000



W.P.No.11660 of 2017

entered into between the petitioner and his siblings, pursuant to which, the petitioner had put up a small house in the said property and the petitioner, his wife and children are in absolute possession and enjoyment of the same from the year 2000. Whiles, on 12.04.2017, the respondents visited the petitioner's property and issued a notice to the petitioner's wife, passed by the 5th respondent, vide proceedings in Na.Ka.A1/953/94, directing her to vacate the subject property within a period of one week. Thereafter, on further enquiry, the petitioner came to know that, the Government has initiated acquisition proceedings as against the petitioner's land and various other lands for the purpose of Adi Dravidar Housing Scheme and aggrieved by the same, the petitioner's brothers have filed a Writ petition in W.P.No. 48977 of 2006, seeking to forbear the respondents from proceeding with the acquisition in respect of the disputed property and the same was dismissed for non prosecution, vide order of this Court dated 07.01.2016 and that, a suit in O.S.No.265 of 2014 on the file of the District Munsif Court, Jayankondam was also filed by some of the legal heirs of the petitioner's father namely Ghousemiyan Sahib, for partition and separate possession of the disputed land and the same is pending. Hence, challenging the said impugned notice, the present Writ petition is filed.



W.P.No.11660 of 2017

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3. Learned counsel for the petitioner submitted that, though several legal proceedings were initiated by other legal heirs of the said Ghousemiyan Sahib, both before this Court and before the lower court, however, it is pertinent to note that, neither the petitioner nor his wife are party in any of the said proceedings and even the present order under challenge was also not issued in the name of the petitioner. It is the major grievance of the petitioner that, though the petitioner's property was also included in the acquisition proceedings, he is also one of the co-owner of the property to be acquired, he was not put to the knowledge about the entire acquisition proceedings and no notice was served either in the name of the petitioner or his wife, though they are in possession of the subject property. Further, it is pertinent to note that, the petitioner came to know about the entire acquisition proceedings only from one Allaudin, son of one of the petitioner's brother. Further, the Writ petition in W.P.No.48977 of 2006 was dismissed for non-prosecution and not on merits and, therefore, the proceedings relating to the acquisition as against the subject property not in accordance with law, is wholly unsustainable. Further, the respondents are threatening the petitioner's wife to vacate the property, as the petitioner is working in



W.P.No.11660 of 2017

Saudi Arabia for the past 10 years.

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4. Learned Additional Government Pleader appearing on behalf of the respondents submitted that, the lands comprised in S.Nos.143/7 & 8, measuring an extent of 0.14.0 & 0.62.5 Hectares respectively belonged to one Khadar Mohideen, S/o.Ghousemiyan Sahib (as per the revenue records) and accordingly, acquisition proceedings were initiated as against the said Khadar Mohideen, and a notice under Section 4(1) of the Land Acquisition Act, 1894 (in short 'Act') was also issued and the same was published in Tamil Nadu Government Gazette No.15 during August 2000. Subsequently, an Award was also passed in Award No.7/2000-2001, after conducting necessary enquiry and after following the due process of law, however, as the land owners have refused to receive the same, an Award amount of Rs.98,850/- was deposited in the Revenue Account. Pursuant to the deposit, the possession of the subject land was taken over by the Government and the revenue records in respect of the disputed land were also mutated in favour of the Government and subsequently, the same was allotted in favour of 107 beneficiaries and pattas were also issued in their favour. While such being the case, filing this Writ petition seeking to quash the proceedings of the 5th



W.P.No.11660 of 2017

respondent dated 12.04.2017, as illegal and non-est in law, that too after a lapse of 17 years is not sustainable. Hence, he prayed for dismissal of this Writ petition.

5. Heard learned counsel on either side and perused the materials available on record.

6. Though it is the contention of the petitioner that no notice has been issued on the petitioner with regard to the acquisition process, however, even the very own averment of the petitioner is to the effect that with regard to partition and separate possession between the legal heirs, a suit in O.S.No. 265 of 2014 is pending. Therefore, it is clear that title to the property, as on date, is not with the petitioner. Therefore, the petitioner cannot claim that no notice has been issued to him which vitiates the acquisition. Further, it is the specific stand of the respondents that the land owners were put on notice and enquiry was conducted and award was also passed and as the land owners failed to receive the same, the amount was put in revenue deposit and possession of the land has been taken.

7. In view of the above, it is clear that non-issuance of personal notice



W.P.No.11660 of 2017

on the petitioner would in no way vitiate the acquisition. Further, the award amount has been kept in deposit, which could be paid to the petitioner only upon a final decision being rendered in the pending suit relating to partition. Subsequent to taking possession of the subject property, free house site patta has also been issued in favour of 107 beneficiaries. In such view of the matter, the relief sought for by the petitioner cannot be granted.

8. In such circumstances, this Court is of the view that, the prayer sought for by the petitioner in the present Writ petition, which has been filed after a lapse of 17 years and the the present petition is hit by enormous delay. Hence, this Writ petition is liable to be dismissed. However, the petitioner is at liberty to workout the remedy in the manner known to law with regard to receipt of compensation.

9. Accordingly, this Writ petition is dismissed. No costs. Consequently, connected Miscellaneous petition is closed.

16.06.2022

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7/10



W.P.No.11660 of 2017

Speaking Order : Yes/ No
Index : Yes/ No

WEB COPY

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8/10



WEB COPY



W.P.No.11660 of 2017

M.DHANDAPANI, J.

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W.P.No.11660 of 2017
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W.P.No.11660 of 2017

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