



W.A. No. 484 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2022

CORAM

**THE HON'BLE MR. JUSTICE T. RAJA
AND
THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU**

**W.A. No. 484 of 2019
and
C.M.P. No. 4283 of 2019**

1. State of Tamil Nadu,
rep. by the Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat,
Chennai – 600 009.
2. The District Collector,
Thiruvallur District,
Thiruvallur.
3. The Special Tahsildar (ADW),
Ponneri Division (E),
Ambattur,
Chennai.

... Appellants

-VS-

1. M.Pradeep Kumar
2. Saneetha
3. Chanra
4. Suguna
5. Lakshmi



W.A. No. 484 of 2019

6. Kannammal

... Respondents

Writ Appeal filed under Clause 15 of Letter Patent, praying to set aside the order dated 11.09.2017 made in W.P. No. 2098 of 2014.

For Appellants : Mr. K.V.Sajeevkumar,
Special Government Pleader

For Respondents : Mr. M.Radhakrishnan (for R1)
Mr. B.Pandiarajan (for R2 to R6)

J U D G M E N T

(Judgment of the Court was made by **T.RAJA, J.**)

The State of Tamil Nadu has brought this appeal challenging the impugned order dated 11.09.2017 in W.P. No. 2098 of 2014 passed by the learned Single Judge wherein the award dated 24.06.2011 was set aside observing that it is open to the respondents/appellants to initiate fresh proceedings for acquisition, in which case, they satisfy with the conditions laid down under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2. Mr. K.V.Sajeevkumar, learned Special Government Pleader appearing for the appellants argued that once notification under Section 4(1) of the Tamil



W.A. No. 484 of 2019

Nadu Act 31 of 1978 was published in the District Gazette, the land vested with

the Government. In the present case, notification under Section 4(1) of the

Tamil Nadu Act 31 of 1978 has been published in Tiruvallur District Gazette

No. 21 on 02.12.2000 in respect of the land belonging to the writ petitioner and

his brother covered in Survey No. 181/2 bearing Patta No. 25 having an extent

of 3.57.0 hectares (9.81 acres) situated in Pothur Village, Ambattur Taluk,

Tiruvallur District. Arguing further, he has contended that when the writ

petitioner approached this Court in W.P. No. 8918 of 2001 challenging the

impugned proceedings bearing Na. Ka. No. 296/2001 dated 20.03.2001 in

Award No. 4/2000-2001 dated 28.02.2001 passed by the Special Tahsildar,

Ponneri Division at Ambattur to quash the same with further direction to the

respondents therein to furnish copy of the District Gazette in respect of

acquisition of the land in question, the learned Judge after ascertaining the

objections of the writ petitioner made it clear that he has not challenged the

land acquisition proceedings and he was concerned only with the compensation

alone. However, taking note of the fact that there was no enquiry held for the

purpose of determining the quantum of compensation, the learned Judge set

aside the impugned award and directed the Special Tahsildar, Ponneri Division

at Ambattur to pass fresh award with regard to the compensation of the

acquired land of the writ petitioner and his brother within a period of three



W.A. No. 484 of 2019

months from the date of receipt of a copy of that order. In support of his submission, he has also brought to our notice the order dated 03.07.2009 passed by the learned Judge in W.P. No. 8918 of 2001.

3. Referring to the representation given by the writ petitioner dated 19.10.2009, he again submitted that the writ petitioner has given his representation requesting the authorities to consider the quantum of compensation for the acquired land belonging to him and his brother. In support of his submission, he has also placed before us the representation dated 19.10.2009. Therefore, based on those arguments, he submits that when the writ petitioner repeatedly approached this Court making his stand very clear that he was not assailing the land acquisition proceedings and he was more concerned with the quantum of compensation in the impugned order dated 11.09.2017, the learned Single Judge while directing the respondents/appellants to initiate fresh acquisitions proceedings, ought to have made it clear that the respondents/appellants should hold enquiry in respect of determining the quantum of compensation. Therefore, the observations made by the learned Single Judge to initiate fresh proceedings for acquisition and that too by satisfying the condition prescribed in the New Act is uncalled for.



W.A. No. 484 of 2019

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4. It is also submitted that when the Hon'ble Apex Court has upheld the validity of the State amendment in Section 105-A in ***G.Mohan Rao and others vs. State of Tamil Nadu and others*** reported in 2021 SCC OnLine SC 440, it goes without saying that the land acquisition proceedings initiated by issuance of notification under Section 4(1) of the Tamil Nadu Act 31 of 1978 is preserved and therefore, initiation of land acquisition proceeding under the New Act is untenable and liable to be quashed.

5. Mr. M.Radhakrishnan, learned counsel for the writ petitioner fairly submitted before this Court that W.P. No. 8918 of 2001 was filed with regard to the quantum of compensation and therefore, the learned Judge also in his order dated 03.07.2009 passed in that writ petition had made it very clear that the writ petitioner has not objected the land acquisition proceedings as of now and he was concerned only with the compensation amount alone.

6. It is pertinent to extract the relevant portion in the order dated 03.07.2009 passed by the learned Judge in W.P. No. 8918 of 2001 as hereunder:



W.A. No. 484 of 2019

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“3. Learned counsel for the petitioner submits that the land acquisition is not objected as of now and the petitioner is concerned with the compensation amount only.”

It is also relevant to extract the submissions in the representation given by the writ petitioner dated 19.10.2009 as hereunder:

“I state that the properties are valuable property on the date of Notification, the market value of the land is not less than Rs. 1 lakh per cent. The said land has potential value as house sites which is very important for consideration. The ground water is available. The ground water is potable. It is very near to Thirumullaivoyal Industrial Estate. The Tirumullaivoyal Industrial Estate is developed one. The Lands are located 2 to 3 Kilometers from Madras-Tiruvallur High Road. Very near to Ambattur Bus Terminal. The Nationalised Banks are located in Thirumullaivoyal Industrial Estate. Hence Compensation may be awarded at the rate of Rs. 1 lakh per cent. I further request that I may be given personal hearing.”



W.A. No. 484 of 2019

7. In the light of the above, we have no hesitation to interfere with the directions given by the learned Single Judge against the respondents/appellants to initiate fresh proceedings for acquisition under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, for the simple reason that the State Government had amended Section 105-A of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 read with the Fifth Schedule and ultimately, it went up to the Hon'ble Apex Court and culminated in ***G.Mohan Rao and others vs. State of Tamil Nadu and others*** reported in 2021 SCC OnLine SC 440, wherein the Hon'ble Apex Court while upholding the validity of the said amendment, had made it clear that the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 shall not apply to the enactment relating to land acquisition as specified in the Fifth Schedule which also contains the Tamil Nadu Acquisition for Harijan Welfare Schemes Act, 1978 (Tamil Nadu Act 31 of 1978). Therefore, by setting aside the impugned order, we make it clear that the 3rd appellant is hereby directed to issue Form III notice within a period of four weeks from the date of receipt of a copy of this order and the writ petitioner is further directed to place all supporting documents within a period of four weeks from the date of receipt of such notice



W.A. No. 484 of 2019

and the 3rd appellant shall pass reasoned orders on merits and in accordance with law within a period of four weeks from the date of receipt of such supporting documents.

8. This writ appeal is disposed of on the aforesaid terms. Consequently, the connected miscellaneous petition is closed. No costs.

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

14.09.2022

vjt

Index: Yes/No

To

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2. The District Collector,
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W.A. No. 484 of 2019

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W.A. No. 484 of 2019

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