



W.P.(MD).No.21307 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 21.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.21307 of 2016

R.Bose Reddi

....Petitioner

Vs

1.The Principal Secretary to Government
Backward Classes and Most Backward Classes Department
Secretariat, Chennai -9

2.The District Collector
Virudhunagar District
Virudhunagar

3.The Assistant Director
Rural Development
Virudhunagar

4.The Special Thasildar (BC) LA.,
Virudhunagar
Virudhunagar District

5.The Commissioner
Sivakasi Panchayat Union
Virudhunagar District

.....Respondents



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Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st and 2nd respondents to make a detailed enquiry on the representation of the petitioner right from 2005 onwards and more particularly on the representation dated 06.08.2016 on the specific allegations made by the petitioner against the 4th and 5th respondents and based on the findings of the enquiry to initiate disciplinary action against the erring officials who sanctioned funds for the construction of house on the disputed site, while the Suit in O.S.No.108 of 2014 in this regard is pending on the file of the District Munsif Court, Virudhunagar.

For Petitioner : Mr.S.Govindan

For Respondents : Mr.P.Thambidurai
Government Advocate

ORDER

This writ petition has been filed seeking a direction as against the respondents 1 and 2 for conducting an enquiry as against the respondents 4 and 5 based upon the representation made by the petitioner dated 06.08.2016 and thereafter initiate disciplinary proceedings against the erring officials who sanctioned the funds for construction of the house on the disputed site, while the suit in O.S.No.108 of 2014 in this regard is pending on the file of the District Munsif Court, Virudhunagar.



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2.A perusal of affidavit discloses that the petitioner and her wife's properties having an extent of 1.42 acres in survey No.19/4B were acquired by the first respondent herein for the construction of houses for women from Backward Classes. For the said acquisition, a compensation amount of Rs.21,300/- was paid to the wife of the petitioner. According to the petitioner, only 60 cents belonged to her wife and the balance 82 cents are the ancestral property of the writ petitioner in which five major sons and daughters have got a share. Hence, it is contended that the very acquisition is contrary to law.

3.The petitioner had further contended that though the lands were acquired in the year 1998 and they were allotted to certain persons for construction of the houses, none of the allottee have come forward for constructing the houses. The purpose of which the lands were acquired, became futile and it was not utilised. On 30.08.2012, the petitioner's wife submitted a representation to the first respondent under Section 48-B of Land Acquisition Act 1894 seeking reconveyance of the property. The petitioner's wife had passed away on 03.09.2012 and thereafter, the petitioner has also sent an another representation seeking reconveyance of the lands. The said request was rejected by the first respondent on 28.11.2014.



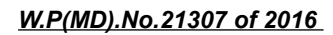
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4.The petitioner had further contended that after acquisition, the land was allotted to various beneficiaries who were not eligible to get an order of allotment. Though allotted beneficiaries have not at all utilised the lands for construction of the houses, there were several illegalities in the allotment made in favour of the beneficiaries. Hence, according to the petitioner, the funds of the Central Government under Indira Awaas Yojana Scheme have been misused by the respondents 4 and 5 in making such an acquisition proceedings.

5.The petitioner had further contended that the petitioner's sons have filed O.S.No.108 of 2014 in which a decree has been passed, confirming the title of the sons of the petitioner. According to the petitioner, the second respondent was also a party to the said suit. Hence, the judgment is binding upon the petitioner.

6.In the writ petition, the petitioner has prayed for a mandamus for conducting an enquiry as against the respondents 4 and 5 based upon his representation dated 06.08.2016 for sanctioning funds for construction of the houses while Civil Suit is pending.

7.Per contra, the learned Government Advocate appearing for the respondents had pointed out that the petitioner's lands have been acquired



8.I have considered the submissions made on either side and perused
cords.

<https://www.mhc.tn.gov.in/judis>



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respondent on 28.11.2014. The said order has also not been challenged. In such an event, the petitioner has no title whatsoever with regard to the said 1.42 acres.

10.After lands have been acquired in the year 1998, the petitioner or his family members do not have any title whatsoever over the said 1.42 acres. However, in the year 2014, the petitioner has set up his major sons to file O.S.No.108 of 214 before the District Munsif Court, Virudhunagar impleading the District Collector and other officials seeking a prayer for declaration that the acquired properties belong to the plaintiff and the 8th defendant. They have further prayed that the documents executed by one Thangathai in favour of the first defendant on 05.10.1998 is null and void.

11.In the said suit, the officials have filed a written statement contending that the property belonging to wife of the petitioner and was purchased through proper negotiation under a registered document dated 05.10.1998. In the said document, the petitioner is also one of the attestors and the consideration amount has also been received after executing a receipt. The official defendants have further contended that the purchased property was divided into 29 plots and it was allotted to various persons. Hence, the said suit is not maintainable.



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12.A perusal of the written statement filed on the side of the official defendants in the Civil suit clearly reveals that the petitioner's wife's lands were not at all acquired by the Government, but the petitioner's wife has sold it to the Government through proper negotiation under a sale deed dated 05.10.1998. These facts have been completely suppressed in the present writ petition. The present writ petition proceeds as if the lands were acquired and a paltry compensation was paid to the petitioner's wife. Only when the acquisition proceedings have been initiated, the question of invoking Section 48-B of the Land Acquisition Act 1894 would arise. The petitioner has made several allegations with regard to the manner of allotment plots in favour of various third parties. Those allottees have not been made as parties to the present writ petition. The petitioner had also made certain vague allegation as against the respondents 4 and 5 alleging that the funds of the Central Government have been misused by these respondents.

13. The petitioner has also contended that the houses were constructed by the beneficiaries and the funds were misused by the authorities in acquisition of the said property. The funds utilised by the authorities for acquiring lands and disbursing the said amount to the land owners can never be considered to be misuse of the funds of the Government. In case, if the beneficiaries are ineligible or they have violated the condition in the



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assignment order, the respondents authorities would always initiate proceedings in accordance with law. The petitioner's wife has sold away the property to the Government on 05.10.1998. However, a false affidavit has been filed by the petitioner that the lands have been acquired by the District Collector, Virudhunagar. After alienating the lands in favour of the Government, the petitioner is attempting to threaten the Government officials for initiating the disciplinary proceedings as against them.

14. In such circumstances, I do not find any merit in the writ petition. It is a vexatious petition and it is an abuse of process of law. The writ petition is devoid of any merits and the same stands dismissed. No costs.

21 .07.2022

Internet : Yes/No
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R.VIJAYAKUMAR, J.

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