



WA No.1162 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA , CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

WA No. 1162 of 2023

S.Jayanthi

... Appellant

-VS-

1. The Commissioner and
Secretary to Government,
Agriculture Department,
State of Tamil Nadu, Chennai.
2. The Deputy Secretary to Government,
State of Tamil Nadu, Chennai.
3. The District Revenue Officer,
Cuddalore 607 001.
4. The Revenue Divisional Officer,
Cuddalore 607 001.
5. The Tahsildar, Kurinjipadi,
Kurinjipadi Taluk,
Cuddalore District.
6. The Superintendent,
Kurinjipadi Marketing Committee,
Kurinjipadi, Kurinjipadi Taluk,
Cuddalore District.



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7. The Secretary,
Cuddalore Marketing Committee,
Head Office, Judge Bungalow Road,
Cuddalore 607 001.

8. The Commissioner,
Hindu Religious & Charitable
Endowments Department,
Nungambakkam High Road,
Chennai 600 034.

... Respondents

Prayer: Writ appeal filed under Clause 15 of the Letters Patent to set aside the order dated 09.09.2022 passed in W.P.No.23869 of 2022 on the file of this Court.

For the Appellant :: Mr.R.Gururaj
 for Mr.D.Baskar

For the Respondents :: Mr.P.Muthukumar
 State Govt. Pleader
 Assisted by Mr.K.M.D.Muhilan,
 Addl. Govt. Pleader for RR 1 to 7

:: Mr.N.R.R.Arun Natarajan
 Spl. Govt. Pleader (HR & CE)
 for R-8.

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JUDGMENT

(Made by the Hon'ble Chief Justice)

We have heard Mr.R.Gururaj, learned counsel for the appellant.

2. The appellant challenges the judgment passed by the learned Single Judge of this Court dated 09.09.2022 in W.P. No. 23869 of 2022. Before the learned Single Judge, the appellant has challenged the notification dated 25.06.1980 and 20.06.1983, that is, the notification and declaration issued under Sections 4 and 6 of the Land Acquisition Act, 1894. The learned Single Judge of this Court dismissed the writ petition. The Court observed that the claim of the appellant is a stale claim and the property purchased by the appellant is after the award has been passed.

3. The learned counsel for the appellant vehemently contends that the vendor of the appellant was never issued with the notice under Section 4 of the Land Acquisition Act nor any amount of compensation was paid to him. The notifications challenged are illegal



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and do not stand to any reason. There is nothing on record to conclude that the property in question is a temple property. The property in Survey No. 77/3A to the extent of 0.61.0 hectare situated at Kurinjipadi belongs to Mayavan. The revenue records also stand in his name. The said Mayavan sold the property to the appellant on 27.06.2019. It is with the purpose to develop the property, the appellant approached the revenue authority to mutate the name of the appellant in the revenue record. The learned counsel submits that the appellant sent a representation to the respondent nos. 6 and 7 to remove the compound wall erected on the appellant's land. The same was not considered. As such, the appellant filed W.P.No.11503 of 2022. This Court under order dated 14.06.2022 issued direction to the respondents to consider the appellant's representation. It is only thereafter the appellant came to know that the land was acquired for construction of market committee. In view of that, the said notification is challenged by the appellant subsequently. As the notifications are illegal, no right is created in favour of the respondents nor the right of the appellant can be divested on the basis of illegal notifications. The learned Single Judge did not consider the said aspect. Learned counsel for the appellant relies



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upon the judgment of the Apex Court in the case of **Vidya Devi vs. State of Himachal Pradesh**, reported in **(2020) 2 SCC 569**.

4. We have also heard Mr.P.Muthukumar, learned State Government Pleader appearing for the respondents 1 to 7 and Mr.N.R.R.Arun Natarajan, learned Special Government Pleader (HR & CE) for respondent no.8.

5. Section 4 notification is of the year 1980 and Section 6 notification is subsequent thereto. The appellant is the subsequent purchaser, that is, after the award has been passed as is observed by the learned Single Judge of this Court.

6. After the declaration under Section 6 of the Land Acquisition Act, the vendor of the appellant could not have executed any instrument of sale in favour of the appellant. Moreover, the acquisition proceedings cannot be challenged by a subsequent purchaser. Reliance can be had upon the judgment of the Apex Court dated January, 16 2023 in the case of **Delhi Development Authority vs. Manpreet Singh** reported in **2023 SCC OnLine SC**



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29. The Apex Court observed that the petitioner being subsequent purchaser had no locus to challenge the acquisition and/or lapsing of the acquisition. In the case of **Vidya Devi** (referred supra) relied upon by the learned counsel for the appellant, the Supreme Court was concerned with the case where the land was acquired without resorting to acquisition proceedings. In the present matter, the appellant herself is challenging the notification and declaration issued by the State Government.

7. In view of Section 16 of the Land Acquisition Act, 1894, when the award had been passed under Section 11, the Collector may take possession of the land, which shall thereupon vest absolutely in the Government free from all encumbrances.

In view of the aforesaid, no case for interference is made out. The Writ Appeal stands dismissed. There will be no order as to costs.

(S.V.G., C.J.) (P.D.A., J.)
13.06.2023

Index : Yes/No
Neutral Citation : Yes/No
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