



*W.A.No.954 of 2013*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.B. BALAJI

**W.A.No.954 of 2013**

Parasuraman ... Appellant

versus

1.The District Collector,  
Thiruvannamalai District,  
Thiruvannamalai.

2.The Special Thasildar,  
Adi-Dravidar Welfare Department,  
Polur Taluk, Polur,  
Thiruvannamalai District.

... Respondents

**PRAYER:** Writ Appeal filed under Clause 15 of the Letter Patent  
against the order dated 03.04.2013 in W.P. No.8368 of 2013.

For Appellants : Mr.M.Sriram

For Respondents : Mr.U.M.Ravichandran  
Special Government Pleader  
for respondents 1 and 2



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### **JUDGMENT**

**WEB COPY** (Judgment of the Court was delivered by *D.KRISHNAKUMAR, J.*)

This Writ Appeal is filed challenging the order dated 03.04.2013 passed by the learned Single Judge in W.P. No.8368 of 2013.

2. By consent of parties and being satisfied with the reasons stated in the affidavit filed in support of the petition in MP No.1 of 2015, the petition is allowed and the appeal is restored to file.

3. The writ appeal is taken up for final disposal by consent of parties.

### **Brief facts of the case**

4.1. According to the appellant/petitioner the property in S.No.830/3, situated in Padavedu Village originally belonged to his ancestors and inherited by the appellant/petitioner. While so, in the first week of February, 2008, the second respondent came and surveyed the land in question. Later on, the appellant came to know that there was proposal to acquire the land for providing pathway to Harijan people of Ramanathapuram village to reach their burial ground. When the second respondent was trying to take possession



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of the property, the appellant/petitioner immediately filed a suit in OS No.166 of 2008 before the learned District Munsif, Polur, against the respondents with a prayer for declaration and permanent injunction. The suit was decreed on 19.09.2008 as prayer for by the appellant/petitioner. Even thereafter, the respondents continued to give trouble to the appellant/petitioner and damaged the standing crops. Hence, the appellant/petitioner had filed a contempt petition against the respondents, Civil Court. In the reply filed by the second respondent in the contempt application, the second respondent had stated that the land in question was acquired on 22.03.1999 and the compensation has been kept in the revenue account of Pollur Branch Treasury and further necessary changes were made in the revenue records on 14.09.2001 depicting the land in question as pathway to the burial ground. Aggrieved by the same, the appellant had filed the writ petition in WP No.8868 of 2013 to issue writ of declaration declaring the acquisition dated 26.03.1999 of the respondents as illegal. The Writ Court, by order dated 03.04.2013, dismissed the writ petition on the ground of delay and laches. Challenging the said order, the instant writ appeal was filed in the year 2013. Subsequently the said writ appeal was dismissed for non prosecution



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on 13.08.2014. Thereafter, a petition in MP No.1 of 2014 was filed to condone the delay of 62 days in filing the application for restoration of the appeal. This Court, by order dated 28.11.2014 allowed the application for condonation of delay in filing the application for restoration of the said appeal. In such circumstances, the application for restoring the appeal came up. Therefore, the restoration application in MP No.1 of 2015 is allowed on 16.08.2023 and the appeal is restored to file and taken up for final disposal.

4.2. According to the appellant, he has filed the suit in O.S.No.166 of 2008 on the file of the learned District Munsif, Polur, arraying the District Collector and the Tahsildar as defendants praying for the relief of declaration and permanent injunction, on the ground that possession of the suit property was with the appellant. The aforesaid suit had to be filed as the defendant department were trying to interfere with the possession of the appellant in the suit property and the aforesaid suit was decreed by the Trial Court on 19.09.2008. Then the appellant/petitioner has filed the Execution Petition in O.E.P.No.59 of 2011. Subsequently, he has filed the writ petition in WP No.8368 of 2013 with a prayer to issue a writ of



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declaration, declaring of the acquisition dated 22.03.1999 passed by the respondents as illegal.

4.3. According to the appellant, he has filed the suit before the Civil Court with a prayer for declaration and permanent injunction in respect of the land in question and the respondents herein had been arrayed as defendants in the suit and the suit has been decreed on 19.09.2008. Therefore, against the said decree of the civil court, the respondents who were the defendants in the said suit cannot proceed with the acquisition proceedings, particularly, when the Execution Petition filed by the appellant is pending.

4.4. According to the appellant, he came to know belatedly only in the year 2012 that the land in question has been acquired by the respondent and hence he filed the instant writ petition before this Court. As he was not aware of the land acquisition proceedings till 2012, the Writ Court ought not to have dismissed the writ petition on the ground of delay and laches and hence he prays to set aside the order passed by the learned Single Judge, impugned in the present appeal.



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5. Learned Government Pleader submitted before this Court that the land acquisition proceedings was initiated by the respondent Department in the year 1999 and the land was acquired on 22.03.1999, after notice having been served on the father of the appellant/petitioner with reference to the acquisition proceedings. Subsequently, the appellant had filed the suit in the year 2008. Learned Government Pleader further submits that there is inordinate delay in approaching the authority concerned challenging the said proceedings initiated by the respondent Department. According to him, there is no merit in the writ petition and therefore he prays for dismissal of the writ appeal.

6. Heard the parties and perused the materials on record.

7. The point for consideration in the writ appeal is whether the prayer sought for by the petitioner in the writ petition, is maintainable and whether the dismissal of writ petition on the ground of delay and laches is valid or not.



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8. The primordial submission made by the learned counsel of the appellant is that the appellant came to know about the land acquisition proceedings only in the year 2012, namely on 16.11.2012. Immediately he filed the writ petition before this Court with a prayer for declaration, to declare the acquisition dated 26.03.1999 passed by the respondents as illegal. We perused the prayer as sought for in the writ petition filed by the appellant, as well as the prayer in the suit filed in the year 2008. It is found that the suit was filed with a prayer for declaration. Further, in the writ petition, the appellant/petitioner has sought the prayer for declaration, to declare the acquisition proceedings of the respondent as illegal. However, there was no prayer in the writ petition challenging the acquisition notification issued by the respondent. The case of the respondent is that when the notice has been served on the father of the petitioner to appear for enquiry, he did not appear for the enquiry to make his objection before the authorities at the time of enquiry. The said fact was not disputed by the appellant in the ground raised in the appeal. On the other hand, it is stated that since the father of the appellant was illiterate he was not aware of his right and therefore he did not challenge the land acquisition proceedings. It is further stated on



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behalf of the appellant, that he came to know about the land acquisition proceedings and award dated 22.03.1999 only on 16.11.2012 and immediately he filed the instant writ petition before this Court. We are not satisfied with the reasons assigned by the appellant for the inordinate delay in challenging the acquisition proceedings before this Court. When the award was passed on 22.03.1999, the appellant has filed the writ petition in the year 2013 before this Court, without challenging the 4(1) notification published under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act 1978 (Act 31 of 1978) and the award passed by the respondent department. Therefore, on the above grounds the prayer as sought for cannot be granted. Therefore, we are not inclined to interfere with the order of the writ Court. There is no merit in the writ appeal and consequently the same stands dismissed. If the appellant/petitioner approaches the authorities for enhancement of compensation if any, the same shall be considered, in accordance with law and take appropriate decision.



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9. With the above observation, the writ appeal is dismissed.

There will be no order as to costs.

**[D.K.K., J.]                      [P.B.B., J.]**  
**16.08.2023**

Index : Yes/No  
Neutral Citation : Yes/No  
mrn



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**and**  
**P.B. BALAJI, J.**

(mrn)

To

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Thiruvannamalai.
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