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W.A.No.2632 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 15.02.2023

Judgment Pronounced on : 23.03.2023

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.2632 of 2022 and C.M.P.No.21067 of 2022

1.R.Moorthy Arulappan

2.Susai

... Appellants

Versus

1.A.Mariammal

2.Annamery

3.Esthar Rani

4.Josebinmery

5.Shanthi

6.Anitha

7.Salethmery

8.Regina mery

9.Uthiriyamery

10.Arul

11.Thresa

12.Paulinmery

13.Motcharagini

14.Annapoorani



W.A.No.2632 of 2022

- 15.Arokkiya Mery
- 16.Arulaai
- 17.Selvi
- 18.Prakasam
- 19.Lourdmary, W/o.Thresnathan
- 20.Johnmery
- 21.Annakkili
- 22.Mery, W/o. Chinnapparaj
- 23.Mery, W/o. Alphonse
- 24.Charles
- 25.Lourdmary, W/o. Lourdsamy
- 26.Elenmery
- 27.Fathima
- 28.Dhansu
- 29.Kalarani

- 30.The Secretary to Government of Tamil Nadu,
Adhi Dravidar Welfare Department,
Fort St.George,
Chennai – 600 009.

- 31.The District Collector,
Office of the District Collector,
Villupuram, Villupuram District.

- 32.The District Adhi Dravidar Welfare Officer,
Villupuram, Villupuram District.

- 33.The Special Tahsildar,
Land Acquisition & Adhi Dravidar Welfare,
Gingee, Villupuram District.

... Respondents



W.A.No.2632 of 2022

Writ Appeal filed under Clause 15 of the Letters Patent Act, to set aside the order dated 10.08.2022 made in W.P.No.6773 of 2022 and allow the above Writ Appeal.

For Appellants :: Mr. K.M. Ramesh, Senior Counsel.
for Mr. V. Subramani

For Respondents :: Dr. A.E. Chelliah, Senior Advocate,
for Mr. K. Sendurpandi (for R1 to R29)

:: Mr. P. Muthukumar,
State Government Pleader, (for R30 to R33)

JUDGMENT

D.BHARATHA CHAKRAVARTHY, J.,

The appellants are the owners of the lands in S. Nos. 31/10, 31/14-17 in *Thamanur* Village, Gingee Taluk, Villupuram District admeasuring an extent of Acres 2.15 Cents. By a notification under Section 4 (1) of the Tamil Nadu Adi-Dravidar Welfare Scheme Act, 1978 dated 28.01.1999, the said lands were sought to be acquired for the purpose of providing free house sites to *Adi-Dravidar* people, who were converted to Christianity.



The petitioners challenged the acquisition before this Court and by order dated 06.01.2009 in W.P. No. 4997 of 1999 it was held that the Act, cannot be invoked once the persons are converted to Christianity and the notification was quashed. However, it was held that the same will not preclude the State authorities to issue fresh notification under the Land Acquisition Act, 1894 as it was for a public purpose to provide house sites to poor. This Court also found that the beneficiaries were already in possession and therefore granted an order of status quo regarding possession for a period of twelve weeks, within such time a fresh notification can be issued. The relevant paragraphs 25 and 26 of the Order is extracted hereunder for *ready reference*:

“25. Therefore, this Court is not inclined only to set aside the acquisition made under Tamil Nadu Act 31 of 1978 and leave the matters at that. It is just and necessary to give further directions to the second respondent District Collector and the third respondent State of Tamil Nadu. While the acquisition under the Tamil Nadu Act 31 of 1978 will stand set aside, this will not preclude the respondents from resorting to the acquisition under the Central Act 1 of 1894 for providing house sites to Christian Adidraavidars of the Thamanur Village by taking appropriate steps for



issuing a proper notification and proceed to acquire the lands for the purpose of distributing them to the 37 beneficiaries already identified by the respondents.

26. The respondents, if so desired, shall take steps to issue notification within a period of twelve weeks from the date of receipt of a copy of this order. Till such time, status quo regarding possession of the land will continue. The writ petition stands disposed of accordingly.

2. However, no steps were taken to acquire the lands, and therefore, *Mariammal & 28 others*, the original beneficiaries approached this Court to take effective steps under the 1894 Act and issue Pattas to them. By order dated 01.04.2019 in W.P.No.26196 of 2014, this Court recorded the statement made by the official respondents in the counter affidavit that, the Pattas granted to them originally will hold good and disposed off the writ petition. The relevant paragraphs 3 and 4 of the order is extracted hereunder for ready reference:

“3. In the paragraph no. 8 of the counter affidavit filed by the fourth respondent it is stated as follows:

Necessary steps have been taken and in this



W.A.No.2632 of 2022

Office Proc. A/400/98 dated 09.04.1999 pattas to the houseless AdiDravidars (Converted Christians) was issued to 37 beneficiaries in the Tamil Land Acquisition Act 31/78, and the same will hold good, in the Central Act 1/1894, and there is no need to issue fresh pattas. There is no merit in the writ petition and is liable to be dismissed.

4. Recording the aforesaid statement in the counter affidavit filed by the fourth respondent and in light of the same, the Writ Petition is disposed of. No costs. The petitioners shall workout their remedy before the authority concerned for taking possession of the property.

3. The said *Mariammal* and others, once again approached this Court by way of W.P. No.19565 of 2020 to mutate the revenue records of the lands in the above survey numbers in their favour. By an order dated 09.07.2021, this Court found that the relief cannot be granted as the land acquisition proceedings were quashed and no fresh proceedings were initiated. However, the authorities were directed to expedite the land acquisition proceedings. The relevant paragraphs 6 and 7 of the Order would read as hereunder:

“6. Admittedly, earlier, the land acquisition



W.A.No.2632 of 2022

proceedings has been set~aside by this Court and so far no fresh acquisition has been initiated, and the petitioners cannot claim any right over the property based on the patta issued in their favour. In the said circumstances, the petitioners cannot seek for mutation of revenue records in their favour. Hence, the prayer sought for in the writ petition cannot be granted and the writ petition is liable to be dismissed.

7. Accordingly, this writ petition is dismissed. No costs. However, considering the fact that already the respondents are taking steps to acquire the land, it is for the Government to expedite the land acquisition proceedings.

4. Thereafter, the appellants/land owners approached this Court by way of W.P. No.30763 of 2016, to restore the Pattas in their name. By an order dated 09.07.2021, this Court allowed the writ petition on the ground that once the land acquisition proceedings are quashed, the original owners are entitled to patta. Paragraphs 4 and 5 of the said judgment read as follows thus :

“4. Admittedly, land acquisition proceedings has been set aside by this Court as early as on 12.06.2009 and the Government was also given liberty to initiate fresh Land Acquisition proceedings



W.A.No.2632 of 2022

within 12 weeks. But, no acquisition proceedings has been initiated for more than 12 years. Now, it is stated that only a proposal is pending with the Government, and no notification has been issued as on today to acquire the land. In the said circumstances, as the land acquisition proceedings was set aside by this Court, the respondents cannot deny patta to the petitioners only on the ground that the proposal is pending with the Government for acquiring the land. In the said circumstances, the impugned order passed by the first respondent cannot stand in the eye of law and it is liable to be set aside.

5. Accordingly, this writ petition is allowed and the impugned order passed by the first respondent dated 19.07.2016 is set aside and the respondents are directed to issue patta in favour of the petitioner. No costs.”

5. Thereafter, the said *Mariammal* and others filed Review Application No. 109 of 2021 seeking to review the order dated 19565 of 2020 for issuance of patta to them which was also dismissed by this Court by order dated 24.11.2021 categorically holding that they will not be entitled to patta so long as there was no acquisition and leaving it open for them to approach for appropriate relief. Paragraph 9 of the Order is



W.A.No.2632 of 2022

extracted hereunder:

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“9. Accordingly, this Review application is dismissed. It is made clear that if at all the petitioners have any grievance, it is always open to them to approach the concerned forum for getting appropriate relief.”

6. Therefore, the said *Mariammal* and others made detail representation to the authorities to initiate fresh proceedings for acquisition. Since there was no positive response, they approached this Court by way of W.P. No.6773 of 2022. Counter affidavits were filed by the respondents in the writ petition and that the matter was pending with the Government to decide whether a fresh acquisition will be resorted to. In the said circumstances, the Learned Single Judge passed an interim order directing the respondents to file a report as to whether they would want to initiate fresh acquisition proceedings and paragraph 3 and 4 of the said order dated 12.07.2022 is as hereunder:

“3. In view of the above, this Court issues



W.A.No.2632 of 2022

direction to the first and second respondents to ascertain as to whether they are going to initiate the land acquisition proceedings to acquire the disputed land in favour of the petitioners by invoking the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013) and directs them to file comprehensive report before this Court on or before 27.07.2022.

4. Post the matter on 27.07.2022.”

7. In compliance thereof, a report was filed by the District Collector, Villupuram District, dated 02.08.2022 stating that the Government has decided to firstly negotiate with the land owners and purchase the lands and if private negotiation fails will resort to the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Based on the submission made, the Learned Single Judge, disposed of the W.P. No.6773 of 2022 by order dated 10.08.2022 by directing the respondents to complete the land acquisition proceedings as expeditiously as possible and also granting an order of status quo till the completion of the proceedings. Paragraphs 4 and 5 of the order are extracted hereunder for ready reference:



WEB COPY



W.A.No.2632 of 2022

“4. In this regard, the second respondent/District Collector filed a status report in which, in Para No.5, it was stated that the Patta in respect of the disputed lands have already been granted and the lands have to be acquired under the Central Act 30/2013. It is further submitted that elaborate procedural formalities are required to be adhered to before initiating the land acquisition proceedings either by direct acquisition or by private negotiation from the willing land owners inter alia providing compensation based on guideline value to the owners. Therefore, it is stated in the status report that another three months time may be granted to enable the District Administration to finalize the process of acquisition. Para No.5 of the status report reads thus:

“In view of the above, this Court issues direction to the 1st and 2nd respondents to ascertain as to whether they are going to initiate the land acquisition proceedings to acquire the disputed land in favour of the petitioners by invoking the Right to Fair Compensation and Transparency, Rehabilitation and Resettlement Act, 2013 (Central Act 30/2013) and direct them to file comprehensive report“. In obedience to the above orders this status report is being filed. It is submitted that the disputed lands have to be acquired as the pattas have already been granted. Now, the only Act to acquire the lands for Government Welfare Scheme available is the Central Act, 30/2013. But, it is considered that the process under the Act is elaborate. Hence, it is considered that the land acquisition, in this case, may be proceeded under private negotiation so as to



complete the process early at the same time providing compensation 275% based on the Guideline Value to the land owners. If this process under private negotiation could not be completed, the disputed lands would have to be acquired under Central Act, 30/2013. As such it is prayed that three months time may please be granted to finalise the above process.”

5. *In the light of the above statement made in Para No.5 of the status report, the Writ Petition is disposed of with a direction to the second respondent/District Collector to complete the acquisition proceedings as expeditiously as possible. The status quo will continue till the disposal of the land acquisition proceedings is over. No costs. Consequently, connected Miscellaneous Petitions are closed.”*

8. Aggrieved by the same, the land owners have preferred the present Intra-Court Appeal under Clause 15 of the Letters Patent.

9. Mr. K.M. Ramesh, Learned Senior Counsel appearing on behalf the appellants would firstly submit that such a direction to acquire the lands ought not to have been issued by the Learned Single Judge. The land owners are put to grave prejudice by compelling the State to acquire their



lands. Secondly, by producing detailed affidavit and supporting documents, he would submit that almost all the so called beneficiaries are not entitled for free house site Pattas as either they are well off in life being Government servants or otherwise well employed and several of them have either moved out of the present land and migrated to cities and not even residing in the village. Another set of them are owning houses and properties disentitling them from claiming themselves to be landless poor so as to be benefited with free house site patta. Therefore, he would submit that the directions of the Learned Single Judge requires interference.

10. *Mr. P. Muthukumar*, Learned State Government Pleader, filed a report in response of the particulars furnished by Learned Senior Counsel for the Appellants and submitted that some of the particulars mentioned by the appellants were true and some were not true. He would submit that the fresh acquisition proceedings have not been initiated so far.

11. *Mr. A.E. Chellaiah*, Learned Senior Counsel appearing on behalf



W.A.No.2632 of 2022

of the beneficiaries, would submit that it is the decision of the state to exercise its power of eminent domain and the appellants/land owners have no right to question, once the acquisition is for a public purpose. In his own inimitable style, he personally swung into action, made a field visit and collected the particulars and filed a statement refuting the allegations of migration/disentitlement,etc and submit that even the report filed by the Government Pleader is also made without even enquiring to the basic facts. He would make a fervent appeal that inspite of all the development, the efforts of the downtrodden poor people to get their feet landed on a small hut of their own, in their own village is yet to see the colour of the coin inspite of their consistent efforts for the past 24 years and would pray that this Court should not interfere in the order of the Learned Single Judge.

12. We have considered the rival submissions made on either side and perused the material records of the case.



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13. As far the first contention of the appellants, regarding the decision to acquire the lands, is no longer open for the appellants to canvass because the rights of parties stood crystallised by the order of this Court in W.P.No.4997 of 1999 extracted supra and the said order has become final. While the acquisition proceedings are quashed, the right of the state to take a decision to acquire afresh for the public purpose stood crystallised. Pursuant thereto, when the State has decided to acquire the lands by due process and has submitted their decision before the Learned Single Judge, no exception can be taken for the direction given by the Learned Single Judge based on the State's own submission.

14. As far as the second limb of arguments of the Learned Senior Counsel, the fallacy is that, it takes into account the present status of the beneficiaries. It can be seen from the order dated 06.01.2009 extracted above, that fresh acquisition can be made for distributing the land for the 37 beneficiaries already identified by the respondents. Therefore, it is left open to State to take a final call on the liberty given to them in the impugned



W.A.No.2632 of 2022

order.

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15. Thus, we find no merits in the Writ Appeal and accordingly W.A.No.2632 of 2022 is dismissed. There is no order as to Costs. Consequently, the connected miscellaneous petition is closed.

(T.R.,A.C.J.) (D.B.C, J.)

23.03.2023

Index : yes

Speaking order

Neutral citation : yes

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W.A.No.2632 of 2022

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To

1. The Secretary to Government of Tamil Nadu,
Adhi Dravidar Welfare Department,
Fort St.George, Chennai – 600 009.
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W.A.No.2632 of 2022

**THE HON'BLE ACTING CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.,**

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Pre-Delivery Judgment in

W.A.No.2632 of 2022
and

C.M.P.No.21067 of 2022

23.03.2023