



W.A.No.2921 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2023

CORAM :

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

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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- 1.G.Ponnurangam
- 2.Subramani
- 3.Sabapathy
- 4.Perumal

.. Appellants

Vs

- 1.The Government of Tamil Nadu,
rep. by its Principal Secretary to Government,
Department of Adi-Dravidar & Tribal Welfare,
Secretariat, Fort St. George,
Chennai – 600 009.
- 2.The District Collector,
Thiruvallur District,
Thiruvallur.
- 3.The Revenue Divisional Officer,
Thiruttani Revenue Division,
Thiruttani,
Thiruvallur District.
- 4.The Tahsildhar,
R.K.Pettai Taluk,
R.K.Pettai, Thiruvallur District.



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5.The Special Tahsildar,
Land Acquisition,
Adi Dravidar (ADW) Welfare Scheme,
Thiruttani,
Thiruvallur District.

6.The Superintendent of Police,
Thiruvallur District.

.. Respondents

PRAYER : Appeal under Clause 15 of the Letters Patent against the order dated 27.9.2023 in W.P.No.24047 of 2022 passed by the learned Single Judge.

For the Appellants : Mr.N.L.Rajah, Senior Counsel
for Mr.K.Balu

For Respondents : Mr.J.Ravindran
Addl. Advocate General
(Co-ordinator)
assisted by
Mr.Karthik Jagannath
Government Advocate
and Ms.T.Reena Thomas

JUDGMENT
(Delivered by the Hon'ble Chief Justice)

Heard Mr.N.L.Rajah, learned Senior Counsel for Mr.K.Balu,
learned counsel for the appellants and Mr.J.Ravindran, learned



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Additional Advocate General (Co-ordinator), assisted by Mr.Karthik Jagannath, learned Government Advocate and Ms.T.Reena Thomas, learned counsel for the respondents.

2. The appellants had filed a writ petition bearing W.P.No.24047 of 2022 for declaration that the land acquisition proceedings initiated against the appellants' lands in Survey Nos.107/2, 107/6, 109/8 and 109/9 situated at Rajanagaram Village, R.K.Pettai Taluk, Thiruvallur District, is illegal, unconstitutional and had lapsed by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 [for brevity, "*the Act of 2013*"]. The learned Single Judge dismissed the writ petition. Aggrieved thereby, the present appeal is filed.

3. Mr.N.L.Rajah, learned Senior Counsel, strenuously contends the appellants, who are the rightful owners of the subject writ property, were never issued with any notice of the



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acquisition proceedings. The appellants were neither issued notice under Section 4 of the Land Acquisition Act, 1894 [for brevity, "*the Act of 1894*"] nor issued the declaration under Section 6 of the Act of 1894.

4. Learned Senior Counsel further submits that as the appellants were not issued with the notice under Section 4 of the Act of 1894, the appellants were deprived of the opportunity to raise objections and the further enquiry under Section 5A of the Act of 1894 was not conducted.

5. Learned Senior Counsel also submits that for providing free house sites to the Scheduled Caste and Scheduled Tribe community people, the only Act which the respondent authorities could have resorted to is the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 [for brevity, "*the Act of 1978*"]. Section 20 of the Act of 1978 bars the operation of the Act of 1894. In spite of the same, the acquisition was conducted



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under the Act of 1894. The acquisition is *ab initio void* and illegal. Such an acquisition can be assailed at any point of time.

6. It is further submitted by learned Senior Counsel that though the award is said to have been passed in the year 1993, the appellants are still in possession of the land. The compensation amount is also not paid. In view of the above, Section 24(2) of the Act of 2012 would come into operation and the acquisition proceedings under the Act of 1894 will stand lapsed.

7. It is also submitted that the subject writ land is used for temple festivities by the villagers. The appellants are ready to allot an alternative site instead of the subject writ site acquired. For the said purpose, even a Peace Committee meeting was called for. The said aspect also be considered by the respondent authorities.



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8. According to learned Senior Counsel, the contentions of the appellants on merits have not been considered by the learned Single Judge.

9. We have considered the submissions canvassed by learned Senior Counsel for the appellants and we have gone through the judgment.

10. The award passed in the year 1993 is sought to be assailed by filing a writ petition in the year 2022, i.e., after lapse of almost thirty years.

11. The learned Single Judge has considered that prior to the present writ petition, the first appellant had filed a writ petition, bearing W.P.No.20728 of 2019. The said writ petition was filed seeking a writ of mandamus directing the respondents to allot alternative sites in Survey Nos.122/3, Patta No.1600, situated in the Raja Nagaram Village, Pallipattu Taluk in



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Thiruthani District. In the said writ petition, the first appellant specifically contended that the land to an extent of 4.84 acres in Survey Nos.107/2, 107/5, 107/6, 107/7, 109/8, 109/9, 109/10A, 109/10B, 109/10C, 109/11 and 109/12 was acquired for the purpose of providing house sites to Scheduled Caste and Scheduled Tribes community people. After acquisition, the said land was not used for the purpose for which it was acquired. Hence, the first appellant and others approached the Collector to provide alternative sites to the beneficiaries instead of the land acquired under the Act of 1894. The said writ petition was dismissed under order dated 23.7.2021.

12. It would appear that in the year 2019 when the first appellant filed the writ petition, bearing W.P.No.20728 of 2019, the first appellant was aware of the land having been acquired, but did not challenge the award. On the contrary, offered alternative site instead of the land acquired. After dismissal of the said writ petition on 23.7.2021, the instant writ petition is



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filed in the year 2022.

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13. All these contentions raised in the present writ petition were never raised in the earlier writ petition. It would be too late in the day for the appellants now to agitate in respect of the validity of the award passed in the year 1993 after having refrained from challenging the same in the earlier writ petition.

14. It has been observed by the learned Single Judge that the land acquired under the award of the year 1993 has been allotted to be beneficiaries; pattas have been issued to the beneficiaries; and the compensation amount has been deposited in the treasury.

15. In the light of the above, it cannot be said that the award would stand lapsed.

16. With regard to the alternative submission made about



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giving other land free of cost to the beneficiaries instead of the acquired land and the Peace Committee meeting conducted in the year 2019, it will not be possible for us to pass any orders on the same. However, if the parties are into some talks, it is for them to proceed in accordance with law and in the best interest of the beneficiaries.

17. The writ appeal is dismissed. However, the order of the learned Single Judge may be implemented after four weeks. There will be no order as to costs. Consequently, C.M.P.No.24204 of 2023 is closed.

(S.V.G., C.J.)

(D.B.C., J.)

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Index : Yes/No
Neutral Citation : Yes/No
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To:

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THE HON'BLE CHIEF JUSTICE
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