



W.A.No.944 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:26.07.2023

Delivered on: 07 .08.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.A.No.944 of 2020

and

C.M.P.No.11430 of 2020

K.V.L.Saroja

.. Appellant

Vs.

1.State of Tamil Nadu repled by
Secretary to Government
Adi Dravidar & Tribal Welfare
Department, Secretariat, Chennai-600 009

2.Special Tahsildar
(Adi Dravidar Welfare)
Thiruvallore, Tiruvallore District

.. Respondents

Prayer:- Appeal filed under Clause 15 of Letter Patent praying to set aside
the order passed by this Court in W.P.No.7846 of 2005 dated 28.04.2018.

For Appellant : Mr.R.Prabhakaran

For Respondents : Mr.U.M.Ravichandra, Spl.G.P



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JUDGMENT

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(Judgment of the Court was made by P.B.BALAJI,J.)

The unsuccessful writ petitioner is the appellant before us. She had filed the Writ Petition seeking to quash the Section-4(1) Notification as well as the consequential Section-6 Declaration under the Land Acquisition Act, 1894, as being illegal in so far as it related to her lands and to consequently forbear the Respondents from acquiring the Petitioner's lands.

2. The case of the Writ petitioner before the Writ Court was that she was never served with any notice of Land Acquisition proceedings by any authorities and that only in November 2004, on receipt of information from the neighbours, she came to know that some proceedings had been initiated. The Petitioner, thereafter made representations to the District Collector, Thilluvallur and also to the Special Tahsildar, Adi Dravidar Welfare, Thiruvallur on 01.12.2004 and 02.12.2004 respectively. As there was no response from both the authorities, the writ petitioner filed a Writ of Mandamus to direct the District Collector, Thiruvallur to consider her representation dated 01.12.2004. The said W.P.No.8569 of 2005 was



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allowed by a Learned Single Judge of this Court on 28.12.2004, directing the District Collector to dispose-off the Petitioner's representation. It is the further case of the writ petitioner that despite the said order of this Hon'ble Court, she was kept in dark about the acquisition proceedings and on the specific allegations that she neither received Section-4(1) notification nor enquiry notice under Section-5A of the Land Acquisition Act, 1894 and the subsequent Section-6 declaration, the petitioner challenged the land Acquisition proceedings before the Writ Court.

3. Before the Writ Court, the 2nd respondent, Special Tahsildar filed a counter affidavit stating that the procedure mandated under the Land Acquisition Act was strictly followed and the allegations made by the Writ petitioner were false and incorrect. It was also stated that even possession was taken over by the department on 28.12.1989 and the compensation amount was also deposited in the Civil Court vide Civil Court Deposit C.No.OA40/100/709691 dated 26.12.1989 and further, a reference was also made to the Sub-Judge, Thiruvallur. It is also stated that house site pattas have also been issued to Adi Dravidars, after possession was taken and that the Petitioner had approached the Court belatedly. On these



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grounds, the Respondents sought for dismissal of the Writ Petition.

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4. The Learned Single Judge finding that the Petitioner had not come to Court with clean hands and had sworn to a false affidavit that she was never served with any acquisition notice ,be it Section 4(1) or 5A enquiry, which were found to be incorrect, on perusal of the records, held that the Writ Petition was liable to be dismissed. Even on the ground of delay and laches the Learned Single Judge found against the petitioner. The Learned Single Judge also found that the petitioner was trying to blow hot and cold by taking inconsistent stand and ultimately dismissed the Writ Petition.

5. Aggrieved by the said dismissal of the Writ Petition, the writ petitioner has filed the present Writ Appeal on the grounds that the acquisition proceedings taken under the Land Acquisition Act were null and void as the acquisition ought to have been done under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (Act-31 of 1978) and that the The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013 would apply and the petitioner would be entitled to compensation under the said new



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Act.
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6. We have heard Counsel for the Appellant, Mr.R.Prabhakaran and the Special Government Pleader, Mr.U.M.Ravichandran for Respondents 1 and 2; We have also perused the records, besides the order of the Learned Single Judge.

7. The Counsel for the appellant would submit that the appellant continues to be in possession and the entire scheme itself has been completed and therefore the appellant is entitled to reconveyance of her land and the order of the Learned Single Judge, according to the counsel for the appellant, suffers from serious infirmities and is liable to be set-aside.

8. Per contra, the Special Government Pleader would invite our attention to the fact that the Adi Dravidars who are the intended beneficiaries have been allotted 165 plots and they have already put-up construction as well and that the entire locality has been provided with street lights and cement top roads, apart from taps and pipelines for supply



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of drinking water. He would further contend that only 29 plots are vacant and it is absolutely incorrect to claim that the appellant continues to be in possession. Insofar as the proceedings initiated under the Land Acquisition Act and not the special enactment namely Act 31 of 1978, he would submit that this Court had struck down Act 31 of 1978 on 09.09.1982 and the State Government preferred a Special Leave before the Hon'ble Supreme Court which was pending at the relevant time. In such circumstances, proceedings were initiated under the Land Acquisition Act, 1894 and only post the verdict of the Hon'ble Supreme Court in 1995 upholding the vires of Act 31 of 1978, acquisition is being done under the said Act. The Special Government Pleader would therefore pray for the dismissal of the Writ Appeal.

9. We have considered the rival submissions made by the counsel on either side.

10. First and foremost, the specific case on which the appellant approached the Writ Court was that she was neither issued any notice under Section-4(1) nor enquiry notice under Section-5A and consequently



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Section 6 declaration. The 2nd Respondent has filed a detailed counter before the Writ Court stating that the Section 4(1) notification in G.O.Ms.No.544 dated 17.03.1988 was duly published in the Government Gazette in 04.05.1988 and the same was also published in two Tamil Dailies on 06.05.1988. That apart, the publication of the substance in the village was also effected on 09.05.1988. Further, it is also seen that the notice for enquiry under Section-5A was also served on 07.07.1988, intimating the Petitioner about the enquiry to be held on 26.07.1988. In fact, the Petitioner has also given an objection Petition on 28.07.1988. The Learned Single Judge has taken into consideration all these factors and held that the petitioner, having come to court with a simple and uncomplicated case that she was never informed or put on notice about the acquisition proceedings or the compensation fixed, turned out to be a totally false case set up before the Writ Court. Having participated in the 5A enquiry and also given her objections, we are unable to buy the story of the Appellant that she was in dark about the acquisition proceedings. In fact the Learned Single Judge has rightly found that only in order to get over a delay of 17 years in filing the Writ Petition, the petitioner has wantonly concealed her participation in the Section-5A enquiry.



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11. Secondly, with regard to the other contention that proceedings were taken under the Central Act and not under the Special Act, we find force in the submissions of the Special Government Pleader. Admittedly the Special Enactment had been challenged, the issue was at large before the Apex Court. Such being the position, the land acquisition proceedings under the Central Act. We do not find any error or irregularities in invocation of the Central Act considering the circumstances prevailing at the relevant point of time. Therefore, the contention of the learned counsel in this regard is not acceptable.

12. We do not find any error in the findings of the Writ Court. The Writ Court has appreciated all the submissions canvassed by the appellant and also taken note of all relevant factors in ultimately proceeding to dismiss the Writ Petition. We have also perused the records and the stand of the 2nd respondent even before the Writ Court was clear and specific that physical possession was taken over and the plots have been allotted to various Adi Dravidars who have also constructed pucca buildings in their respective plots. Therefore, we are unable to accept the contentions of the counsel for the appellant that the appellant continues to be in possession



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and she is entitled to reconveyance or alternatively compensation under Section 24(2) of the new Act

13. We are in full agreement with the findings of the Learned Single Judge that the land acquisition proceedings were initiated way back in the year 1988 and the appellant has approached the Writ Court only in the year 2005 and that too, in such process has chosen to willfully suppress material particulars well within her knowledge, merely in order to get over the of delay and latches on her part. Such conduct of the Appellant is deprecated and we are also of the view that the Writ Petition is liable to be dismissed even on the ground of inordinate delay and latches.

Viewed from any angle, the Writ Appeal is liable to fail and consequently the Writ Appeal stands dismissed. There shall be no order as to costs.

(D.K.K.J) & (P.B.B.J)
07.08.2023

Internet : Yes
Index: Yes/No
Neutral Citation: Yes/No



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To
1.The Secretary to Government
State of Tamil Nadu
Adi Dravidar & Tribal Welfare Department
Secretariat, Chennai-600 009

2.The Special Tahsildar
(Adi Dravidar Welfare)
Thiruvallore, Thiruvallore District



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D.KRISHNAKUMAR, J.,
and
P.B.BALAJI,J

(kpr)

Pre-delivery judgment in
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