



W.A.No.2496 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.B. BALAJI

W.A.No.2496 of 2018

G.Srinivasu

... Appellant

versus

1.The State of Tamil Nadu
Represented by its Secretary,
Adi Dravida & Tribal Welfare Department,
Fort St.George,
Chennai-9.

2.The District Collector,
Krishnagiri District at
Krishnagiri.

3.The Special Tahsildar,
Adi Dravidar Welfare Scheme,
Krishnagiri District.

4.Mr.Krishnappa

5.Mr.Mahesh
R4 and R5 are impleaded
in CMP No.4273 of 2019 in
WA No.2496 of 2018 vide
order dated 06.03.2019 by TSSJ andV BSJ

... Respondents



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PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 10.09.2018 in W.P. No.9565 of 2017.

For Appellant : Mr.G.M.Ananthakumar
for Chandrakumar L

For Respondents : Mr.U.M.Ravichandran
Special Government Pleader
for respondent Nos.1 to 3
Not Ready Notice Reg R4 and R5

JUDGMENT

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

Appeal has been filed challenging the order dated 10.09.2019 passed in W.P.No.9565 of 2017, by the learned Single Judge rejecting the prayer to reconvey the land in question to the appellant/petitioner under Section 48 B of the Tamil Nadu Land Acquisition Act, 1894 (hereinafter referred to as the Old Act, 1894)

Brief facts of the case:

2.1. The appellant/petitioner is a small farmer. The appellant/petitioner's family members are the joint owners of a total extent of 4.46 acres of dry land in S.No.108/2, Salivaram Village, Denkanikottai Taluk, Krishangiri District and the appellant/petitioner is one among them.



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2.2. According to the appellant/petitioner, the land in question was acquired by the department under Section 4(1) Notification of the Old Act, 1894 for the purpose of Harijan Welfare and the same was followed by a notification under Section 6 of the Old Act, 1894 and a consequential order in G.O.Rt.No.792 Industries, Labour & Cooperation dated 05.10.1955 was issued. Despite the said declaration, no compensation was paid to the predecessors of the appellant/petitioner, but the land was sub divided and allotted to the beneficiaries. The beneficiaries to whom the land of the predecessors of the appellant/petitioner was allotted did not intend to occupy the lands allotted to them as the dead bodies of some of the predecessors of the appellant/petitioner were buried in the said land.

2.3. According to the appellant/petitioner, the aforesaid land is still vacant and the same is being cultivated by the appellant/petitioner. Therefore, the appellant/petitioner filed the writ petition for reconveyance of the land in question under Section 48-B of the Old Act, 1894. The learned Single Judge by order 10.09.2019, dismissed the writ petition without considering the said contention of the appellant/petitioner. Therefore, the appellant/petitioner has filed



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the present intra court appeal before this Court to set aside the order of the learned Single Judge and grant the relief as prayed for by the appellant/petitioner in the writ petition.

2.4. According to the petitioner the said land is unutilized by the respondent and the beneficiaries had not taken the possession of the said land in question. Therefore, he seeks to convey the said land in question to the appellant/petitioner under Section 48 B of the Old Act, 1894.

3. Learned Government Pleader appearing for the respondent Government objected that the appellant/petitioner has sought for reconveyance of the land in question under Section 48 B of the Old Act, 1894 when the said land has already been utilized by the respondent and assigned the land to the beneficiaries. Therefore the said contention of the appellant/petitioner is unacceptable as the same is totally contrary to facts. Hence, the appellant/petitioner is not entitled for reconveyance of the land under Section 48 B of the Old Act, 1984.



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4. It is further submitted by the learned Government Pleader that the prayer of the appellant/petitioner to reconvey the land in question under Section 48 B of the Old Act, 1894 does not arise, particularly when the compensation amount awarded has already been deposited in the Civil Court. He further submits that similar writ petitions have been filed before this Court challenging the land acquisition proceedings and the first of such writ petition is W.P.No.11747 of 1983, which was dismissed on 12.11.1992 on the ground of laches. Another writ petition in W.P.No.8881 of 1993 also was dismissed by this Court on 02.11.1995. Challenging the same, W.A.No.1414 of 1995 was filed by the appellant/petitioner which was also dismissed by this Court on 22.12.1995. One more W.P.No.923 of 1997 was filed and the same was dismissed by this Court on 20.10.2002 on the ground of laches. Thus all these cases were dismissed by this Court, which challenged the land acquisition proceedings in respect of the land in question when such is the factual position, now the appellant/petitioner has approached the authorities under Section 48 B of the Old Act, 1894 to reconvey the said land is unsustainable.



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5. The learned Government Pleader further submits that in view of the earlier decisions rendered by this Court in respect of the land in question, the prayer as sought for now by the appellant/petitioner seeking for the said land to be reconveyed to the appellant/petitioner cannot be considered, when the respondent has already allotted to the beneficiaries and compensation amount has also been deposited in Civil Court. That being so, the relief as prayed for by the appellant is liable to be dismissed.

6. According to the learned counsel for the appellant/petitioner, the land is not utilized by the respondent for the purpose for which it was acquired and the beneficiaries have not occupied the land and the same is cultivable land and the same is under the occupation of the appellant/petitioner. However, no such material has been placed before this Court to establish the arguments advanced by the learned counsel for the appellant/petitioner. At this juncture, there is no saving clause to consider the said request of the appellant under Section 48 B of the Old Act, 1894.



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7. In such circumstances, we are not inclined to interfere with the order dated 10.09.2018 passed by the learned Single Judge. If any relief is available to the appellant/petitioner, it is for him to approach the authority concerned under the provisions of the Right to Fair Compensation and Transparency In Land Acquisition, Rehabilitation and Resettlement Act, 2013 (The New Act). We make it clear that we are not making any positive observations in the Writ Appeal.

8. In view of the facts and circumstance of the case, W.A.No. 2496 of 2018 stands dismissed. There will be no order as to costs.

[D.K.K., J.] [P.B.B., J.]
31.08.2023

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



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