



W.A.No.908 of 2014 & W.P.No.22601 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 21.09.2023	Delivered 08.11.2023	on:
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CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR.JUSTICE P.B.BALAJI**

**W.A.No.908 of 2014 & W.P.No.22601 of 2010
and
M.P.No.1 of 2014 & M.P.No.1 of 2010**

W.A.No.908 of 2014

K.N.Ramachandran

.. Appellant / Third party

Vs.

- 1.Muthumari
- 2.Rathna
- 3.Murugammal
- 4.Manimala
- 5.Thangamani
- 6.Karpagam
- 7.Chinnapappa
- 8.Lakshmi
- 9.Amutha
- 10.Nirmala
- 11.Lalitha



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12.Rami

13.Unnamalai

14.Chinnapappa

15.Saliyammal

16.Murugammal

17.Vijaya

18.Majula

19.K.Punitha

20.G.Punitha

21.Lakshmi

22.Jamuna

23.Chenni

24.M.Manjula

25.Kasthuri

26.Radha

27.Uma

28.C.Yellammal

29.K.Manjula

30.S.Yellammal

31.Unnamalai

32.Muthammal

33.Ambika

34.Peruma

35.Munniammal

36.Rani



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37.Sunderammal

38.Pushpa

39.Muniammal

40.Deivanai

41.Kannammal

42.Sumathi

43.Sumiya

44.Pazhaniammal

45.Selvi

46.Indira

47.N.Aruna Devi

48.Munniammal

49.Valarmathi

50.The State of Tamil Nadu

rep. by the Collector,

Collectorate, Krishnagiri District,

Krishnagiri – 635 001.

51.The Special Tahsildar,

Adi Dravidar Welfare,

Taluk Office, Krishnagiri,

Krishnagiri District.

.. Respondents / Respondents

Prayer:- Appeal filed under Clause 15 of Letter of Patent, against the judgment, dated 31.01.2014, passed by the learned Single Judge, in W.P.No.22271 of 2011.

For Appellant : Ms.Abiramee



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for Mrs.V.Srimathi

For Respondents : Mrs.V.Rani for R1 to R49
: Mr.P.Kumaresan,
Additional Advocate General
Assisted by Mr.T.Tippusulthan
Government Advocate for R50 & 51

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K.N.Ramachandran

.. Petitioner

Vs.

- 1.The Collector,
Dharmapuri District..
- 2.The Special Tahsildar,
Adi Dravidar Welfar,
Krishnagiri District.
3. The Special Commissioner and
Commissioner of Land Administration,
Ezhilagam, Chempauk,
Chennai – 5.
- 4.Muthumari
- 5.Thangamani
- 6.Amutha
- 7.G.Manjula
- 8.M.Manjula



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9.Kasthuri

10.Unnamalai

11.Muthummal

(R4 to R11 impleaded as per order, dated

10.11.2014, in M.P.No.1/2014)

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to de-notify the lands in Survey No.666/2B, measuring 1.36.0 Hectares of Sappanipatti Village, Krishnagiri Taluk and District.

For Petitioner : Ms.Abiramee
for Mrs.V.Srimathi

For Respondents : Mr.P.Kumaresan,
Additional Advocate General
Assisted by Mr.T.Tippusulthan
Government Advocate for R1 to R3
: No appearance for R4 to R11

COMMON JUDGMENT

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

The petitioner sought for issuance of a Writ of Mandamus to



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direct the respondents to de-notify the appellant's lands in Survey No.666/2B measuring 1.36.0 Hectares at Sappanipatti village, Krishnagiri Taluk.

2. The case of the petitioner is that he is the owner of the subject lands and the statutory respondents proposed to acquire the same for providing house sites to Harijans under the Harijans Welfare Scheme and Sec. 4(1) Land Acquisition Notification was issued on 27.11.1997, despite objections raised by several land owners who would be affected by the proposed acquisition. The petitioner had challenged the proceedings on the ground that though 50 persons were identified to be beneficiaries under the Harijans Welfare Scheme, on verification, the appellant was shocked to note that there were only 62 Adi Dravidar families residing in the village covered under the Scheme and on the contrary, the allotment was given to the strangers, women and other persons, who were not entitled to the benefit of patta or allotment under the Adi Dravidar Scheme. It is also stated by the petitioner that he gave a representation to the Special Commissioner and Commissioner of land Administration, Chepauk, Chennai, who in turn directed the District Revenue Officer to take action on



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the appellant's letter, dated 23.04.2003. It is the further case of the appellant that the lands are fertile lands with Mango and Coconut trees and no compensation was also paid for the proposed acquisition. Contending that the appellant continued to be in possession, carrying on agricultural operations and also in view of the materials unearthed by him that even though only 62 Adi Dravidar families had been residing, acquisition was made for the benefit of more than 80 persons and the appellant's lands were also not included. Further, it is also the specific case of the appellant that in respect of two other land owners, who had in fact purchased from the appellant's family, they had filed a Writ Petition and from the same, it is clear that the acquisition is being sought for the very same beneficiaries which is an abuse of the authority by statutory respondent, besides also being an arbitrary exercise of power by administration.

3. The Special Thasildhar, Adi Dravidar Welfare, filed a counter affidavit stating that the acquisition proceedings were in order and in accordance with law. The appellant chose to challenge the proceedings after a lapse of 12 years and it is not correct to state that the objections were given by land owners at the time of proposed acquisition. Further he



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would state that the appellant had earlier challenged the acquisition proceedings in W.P.No.1037 of 1998 and the same was dismissed on 10.07.2000 and even the Writ Appeal in W.A.No.1584 of 2000, came to be dismissed on 07.08.2001. The Writ Petition filed by the other land owner, which was refereed to by the appellant in W.P.No.6713 of 2003 was also dismissed on 02.08.2010. Further, according to the second respondent, the Adi Dravidars from the village are very poor and homeless and only to provide them with free house sites, the acquisition proceedings were initiated and the same has also been completed 12 years back and therefore, there is no excess land available for de-notifying the appellant's lands.

4. The respondents 4 to 11 denied the claims of the appellant that they had migrated to Karnataka, permanently and that their plots were still lying vacant and these respondents supported the case of the statutory respondents and prayed for dismissal of the Writ Appeal.

5. The beneficiaries being Adi Dravidars, numbering 49 had filed a Writ Petition in W.P.No.22271 of 2011 before this Court against the



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Collector, Krishnagiri District and Special Thasildhar, Adi Dravidar Welfare, Krishnagiri District praying for assigned plots being handed over to each of them pursuant to the patta granted on 18.10.2000. The Writ Court, in and by order, dated 31.01.2014, allowed the said Writ Petition holding that the pattas granted to the 49 petitioners in respect of individual plots was in force as on date and that the beneficiaries were entitled to obtain possession of the plots assigned to them and the statutory respondents were directed to pass orders with regard to handing over of the assigned plots within a period of three months from the date of receipt of copy of the said order. Pending the Writ Petition filed by the appellant, in W.P.No.22601 of 2010, the above order came to be passed in W.P.No.22271 of 2011.

6. Aggrieved by the said order of the Writ Court, after seeking leave to file Writ Appeal, the appellant has preferred the present Writ Appeal on the ground that the acquisition has resulted in unfair enrichment to certain individuals and that in order to get over the Writ Petition already filed by the appellant and pending, the respondents have instigated the beneficiaries to file Writ Petition No.22271 of 2011. In the said Writ



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Appeal the appellant challenges the order of the writ Court on the grounds that the order ought not to have been passed, despite the Court being notified about the pendency of W.P.No.22601 of 2010; the said Writ Petition having been adjourned for the purpose of the State to explain as to why acquisition was initiated, when lands were available in excess already and also to produce records relating to number of Harijans living in the locality and also to show whether there has been any repeated benefits given to the same families, the appellant's lands were fertile agricultural lands; the acquisition proceedings were bad for the simple reason that the survey number mentioned in Form- I is different from the Survey number mentioned in Section 4(1) Notification; the Writ Court failed to see that the appellant was to be heard before any order would be passed; the Writ Court also failed to take note of the fact that mere grant of patta could not convey any legal right and ultimately sought for the said order of the Writ Court being set aside.

7. The petition in W.P.No.22601 of 2010, filed by the appellant was directed to be tagged along with the present Writ Appeal.

8. We have heard the Writ Appeal as well as the Writ Petition



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together and Mr.Ms.Abiramee, learned counsel for appellant, Mrs.V.Rani learned counsel for respondents 1 to 49, Mr.P.Kumaresan, learned Additional Advocate General Assisted by Mr.T.Tippusulthan, learned Government Advocate, for respondents 50 & 51 were heard. We have perused the records produced by the parties by way of typed set and have also carefully perused the order passed by the Writ Court and also considered respective contentions of the parties.

9. At the outset, one important factor that needs to be taken note is that pending the Writ Appeal as well as the Writ Petition, in and by proceedings in Na.Ka.No.6101/2014/L2, dated 17.07.2018, the District Collector, Krishnagiri, finding that most of the beneficiaries were not entitled to the patta granted to them, cancelled 47 pattas out of the 50 pattas originally granted to various Adi Dravidars as beneficiaries. It is pertinent to note that in respect of the appellant's lands in total, only 50 persons were identified and issued pattas. Admittedly, out of the said 50 persons, pattas issued in respect of 47 beneficiaries have now been cancelled. The said cancellation order, dated 17.07.2018 has not been challenged by any of the beneficiaries and the same has become final. This



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development, pending the Writ Petition and also Writ Appeal assumes grant significance. That being the case, we directed the District Collector, Krishnagiri, to file a report, before us. In compliance with the same, on 08.08.2023, in Na.Ka.No.6101/2010/L2, dated 04.08.2023, the District Collector, Krishnagiri, has filed a report stating that it is a fact that out of 50 beneficiaries, 47 beneficiaries were found to be disqualified and unfit for allotment and therefore, 47 pattas have already been cancelled on 17.07.2018. It is also stated by the District Collector that the lands were acquired only for providing free house site pattas to Adi Dravidars, and therefore, it was not possible for de-notifying or releasing the appellant's lands. It is also stated that in Paiyur - 2 Revenue Village, Pommachanthiram Village, 62 Adi Dravidar families were residing and in Sappanipatti Village about more than 75 Adi Dravidar families were residing and therefore steps would be taken to find out eligible persons for free house sites to be allotted and the same would be implemented in due course.

10. Ms.Abiramee, learned counsel for the appellant would state that the lands were originally sought to be acquired under the Act 31 of 1978. It is also admitted by the respondents that the original beneficiaries



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themselves have been found to be unfit for allotment and their pattas have also been duly cancelled and also in view of the fact that the said order remains unchallenged for more than 5 years, at the instance of the beneficiaries, coupled with the fact that the appellant continues to remain in possession, the petitioners request for de-notifying his lands ought to be positively considered.

11. Per contra, Mr.P.Kumaresan, learned Additional Advocate General would submit that lands have been acquired already and it is the discretion of the State to use the acquired lands for any other purpose and as long as it is for the benefit of Adi Dravidar, it is not open to the appellant to question the same and further contended that the request for de-notifying the lands cannot be acceded to, since the authorities have clearly placed it on record stating that lands would be utilized for other Schemes and only in order to benefit the poor Adi Dravidar families. He would therefore pray for dismissal of the Writ Appeal as well as the Writ Petition.

12. We have paid our anxious and careful consideration to the submissions advanced by the learned counsel for the parties.



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13. Though it is the specific case of the appellant in the Writ Appeal as well as the petitioner in the Writ Petition that his lands were sought to be acquired, he challenged the said proceedings unsuccessfully before this Court in Writ Petition as well as Writ Appeal. In view of the fact that no steps have been taken by the authorities, even thereafter to take physical possession from the appellant, and also in the light of the categorical allegation that there has been overlapping of beneficiaries and repeated acquisition for one and the same family, he approached the Writ Court in W.P.No.22601 of 2010. It is also in dispute that pending the said Writ Petition, the beneficiaries, numbering 49 Adi Dravidars, approached the Writ Court in W.P.No.22271 of 2011, without impleading the appellant herein as a party and obtained an order from this Court, to consider their request for handing over possession of their respective plots within a period of three months.

14. The said Writ Petition also came to be allowed and with the leave of this Court, the appellant has filed the present Writ Appeal and thereafter, the writ petition has been tagged and posted along with the Writ Appeal for being heard together.



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15. The fact that 49 beneficiaries had approached the Writ Court and sought for handing over the possession establishes the fact that the appellant has always been in possession. It is also the specific case of the respondents in the said Writ Petition that possession could not be handed over to the beneficiaries only because of the writ petitions filed by the appellant. In all fairness, the respondents ought to have informed the factum of the pendency of the Writ Petition filed by the appellant and sought for the appellant being impleaded before any final orders was passed in W.P.No.22271 of 2011.

16. Be that as it may, it is an admitted fact that 47 out of 50 beneficiaries, who were originally granted patta, were found by the State to be unfit and disqualified for such free allotment of house sites and in pursuance of the same, an order also came to be passed by the District Collector as early as on 17.07.2018. This proceeding of the District Collector only confirms the allegations made in the affidavit in support of W.P.No.22601 of 2010. In any event, the acquisition was made for the very specific purpose of allotting free house sites to 50 beneficiaries and pending the Writ Petition as well as the Writ Appeal, now before us, 47 of



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the beneficiaries have been found to be disqualified and therefore their pattas have also been cancelled. None of 47 beneficiaries have chosen to challenge the same. The contention of the learned Additional Advocate General is that the lands have already been acquired and when the petitioner has unsuccessfully challenged the same up to Writ Appeal, it is not open to the appellant to seek de-notification of the same only on the ground that he has been in possession of the lands all through. Further, the learned Additional Advocate General would also state that it is only because of the pendency of these Writ proceedings, the authorities were not able to take physical possession of the appellant and in such circumstances, he would state that the acquisition proceedings have already been concluded more than a decade back and the lands will be put to use for benefiting poor and homeless Adi Dravidars, only after identifying genuine candidates, for such purpose.

17. We are unable to countenance the said submissions of the learned Additional Advocate General. The acquisition originally made under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act 31 of 1978 was for a specific purpose to allot lands for poor and



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homeless Adi Dravidars numbering 50. Now, it is an admitted provision that out of 50 persons for whom pattas were issued, 47 pattas have been cancelled as early as in 2018 and the said order has also become final. In such scenario, when the appellant continues to be in physical possession of his lands carrying on agricultural operations, it cannot be contended by the State that the lands would be put to use, after identifying suitable / eligible Adi Dravidars who was poor and without homes, and entitled to free house sites. Act 31 of 1978 is a Special Act and when the scheme itself is rendered unworkable in view of 47 out of 50 beneficiaries originally identified having been found by the State, to be ineligible for such allotment of the house site, the very object of the scheme stands defeated. It cannot be said that the scheme would be given effect by identifying new beneficiaries who would be allotted free house site. Such a contention of the State is unacceptable and unjustifiable; especially in the light of the submissions of the learned counsel for the appellant that a completely fresh exercise has to be carried out as to how many Adi Dravidars reside in the subject village and out of those, how many of them are without homes and are requiring assistance from the State by way of allotment of free house sites. The authorities cannot chose to carry out such exercise keeping



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the earlier acquisition intact, since the parties for whom the said acquisition was then made, have been found disqualified and unfit for allotment of fresh house sites.

18. The learned counsel for the appellant would place reliance on the decision of ***Rameshwar V. State of Haryana*** reported in **2018-6-SCC-215**, where the Hon'ble Supreme Court held that when there has been fraud on power, the duty of the Court is not only to set aside such exercise but to see that there is no unjust enrichment directly or indirectly as a result thereof and there is full and substantial restoration. The Hon'ble Supreme Court also held that land is a scarce natural resource and or owner of land has a guarantee against being deprived of his rights, except under a valid law, that too for compelling needs of the society and not otherwise.

19. The learned Additional Advocate General would fall back on the often quoted the decision in ***Tamil Nadu Housing Board V. Keeravani Ammal*** reported in **2007-2-CTC-447**, when it was held that once a piece of land has been duly acquired under the Land Acquisition, the land becomes the property of the State and that State can dispose of the



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property thereafter or convey it to anyone, if the land is not needed for the purpose for which it was acquired, but only for the market value that may be fetched for the property as on the date of conveyance. The doctrine of public trust would disable the State from giving back the property for anything less than the market value. In the said decision of the Hon'ble Supreme Court Section 48B introduced into the Land Acquisition Act in the State of Tamil Nadu was found to be an exception to this rule. The Hon'ble Supreme Court held that such a provision has to be strictly construed and strict compliance with its terms insisted upon and the Hon'ble Supreme Court found that it was the specific case of the State and the Housing Board that possession has been taken and plans finalised to fulfil the purpose for which the acquisition was made. At the outset, we may state that the said decision may not apply to the facts of the present case and the proceedings arising under the Act 31 of 1978. It is an admitted position that physical possession continues to be with the appellant and the allegations that had been made by the appellant have only been shown to be true by their very act of the cancelling 47 out of 50 of the patta granted to beneficiaries, who were originally identified as poor and homeless and entitled to free house site.



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20. In view of the foregoing discussions, despite the appellant failing in his challenge to the land Acquisition proceedings earlier, in view of the relevant and subsequent developments in the matter, which clearly show that the original requirement of the appellant's lands does not subsist any more, the appellant is entitled to his lands being de-notified as prayed for. It is needless to state that if the statutory respondents are of the opinion that the lands of the appellant are still required for providing free house sites to poor and homeless Adi Dravidars in the village, it is always open to them to initiate fresh acquisition proceedings in accordance with law.

21. In fine, the Writ Petition as well as the Writ Appeal stand allowed and the order dated 31.01.2014 passed in W.P.No.22271 is hereby set aside. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

(D.K.K.J.) & (P.B.B.J)
08.11.2023

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Neutral Citation: Yes/No
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To

- 1.The Collector,
Collectorate, Krishnagiri District,
Krishnagiri – 635 001.
- 2.The Special Tahsildar,
Adi Dravidar Welfare,
Taluk Office, Krishnagiri,
Krishnagiri District.
- 3.The Collector,
Dharmapuri District.
4. The Special Commissioner and
Commissioner of Land Administration,
Ezhilagam, Chepauk, Chennai – 5.



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

Ls/kpr

Pre-delivery judgment in
W.A.No.908 of 2014 &
W.P.No.22601 of 2010

08.11.2023