



W.P.(MD) No.3455 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2023

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THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.P.(MD) No.3455 of 2020

and

W.M.P.(MD) Nos.2912, 2914 and 2916 of 2020

1.Subbulakshmi

2.Vignipriya

3.N.Solai Krishnama Raja

... Petitioners

/vs./

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Tahsildar (Special),
Adidraavidar Welfare,
Rajapalayam.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the 1st respondent proceeding No.Na.Ka.D1/6904/2003 dated 07.06.2004 as published in the Virudhunagar District Gazette Special Issue dated 11.06.2004, quash the same.



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For Petitioners : Mr.A.Sivaji

For Respondents : Mr.T.Amjadkhan
Government Advocate

ORDER

The above writ petition is filed for the issue of a Writ of Certiorari calling for the records in Na.Ka.No.D1/6904/2003 dated 07.06.2004 of the first respondent and quashing the same.

2.The facts as set out in the affidavit filed in support of this writ petition are herein below set out briefly.

3.The petitioners would submit that one K.K.Narayana Raja, the husband of the first petitioner and father of the petitioners 2 and 3, had purchased an extent of 3.22 acres (1.30.5 hectares) in S.No.363/1 at Sammanthapuram Village under a registered sale deed dated 29.08.1994. Thereafter, it appears that portion of the property had been acquired for forming a road to the Samathuvapuram Kudiyruppu. This acquisition was done by private negotiations with the said K.K.Narayana Raja, who had sold an extent of 30 cents (0.12.0 hectares) to the



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Excellency Governor of the State under a registered sale deed dated 22.06.1998.

Therefore, the lands were sub-divided and the property in occupation of the said K.K.Narayana Raja was allotted S.No.363/1A and measured an extent of 2.69 acres (1.09.0 hectares). On 29.05.2006, the said K.K.Narayana Raja had died leaving behind him surviving the petitioners as his legal heirs.

4.It is also the case of the petitioners that during the life time of K.K.Narayana Raja, an extent of 0.40.5 hectares in S.No.172/2B of the same village had been the subject matter of acquisition. A notification under Section 4(1) of the Tamil Nadu Land Acquisition Act 31 of 1978 was published in the Government Gazette on 31.07.1998. Thereafter, an appeal for enhancement of compensation was made, which is pending in C.M.A.No.38 of 2000 on the file of the Sub Court, Srivilliputtur. Further, an extent of 0.35.5 hectares in S.No. 172/2A2 was also acquired under the aforesaid Act. Thereafter, awards were passed in Award No.7 of 1999 dated 24.11.1999 and Award No.4 of 19998-99 dated 10.11.1998. The appeals were filed for enhancement of compensation in CMA.Nos.16 and 38 of 2000 respectively. These appeals are pending disposal.



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5.The petitioners would submit that on 09.03.2019, the first petitioner was served with a legal notice, in which it was mentioned that the land in S.No. 363/1A had been acquired. Immediately, the first petitioner had sent a reply dated 31.03.2019. The petitioners would submit that after the death of K.K.Narayana Raja, they have been enjoying the following properties apart from the land comprised in S.No.363/1A. The legal notice would read that the land in S.No. 363/1A had been acquired and the alleged beneficiaries were not provided with free house sites, as a result of which, a Public Interest Litigation had come to be filed in W.P.(MD) No.4259 of 2010, which was heard and disposed of by this Court.

6.In the said writ petition, the petitioners were not made as parties. However, K.K.Narayana Raja was made as a party. K.K.Narayana Raja had died on 29.05.2006. In fact, K.K.Narayana Raja was impleaded as a party to the proceedings after the filing of the writ petition. This despite the fact that the petitioners therein were very much aware of the death of K.K.Narayana Raja. Therefore, the order passed in W.P.(MD) No.4259 of 2010 is not binding on the petitioners as the order has been passed against the dead person.



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7.It appears that the wife of the petitioner in W.P.(MD) No.4259 of 2010 was compelling the Tahsildar, Rajapalayam, to issue free house patta, since this Court in the aforesaid writ petition had directed the authorities to provide a house site patta. Therefore, the petitioners have come forward with this writ petition for the relief set out supra. The petitioners would submit that the revenue records are standing in their names and it is them, who have been paying the taxes in respect of the property. While granting the interim orders on 19.02.2020, this Court had made the following observations:-

“Mr.A.Muthu Karuppan, learned Additional Government Pleader takes notice for the respondents.

2.From the facts narrated and the documents produced before this Court, this Court is of the view that no acquisition proceedings is initiated under the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act 1978. The notification produced is not one under Section 4(1) of Act after conducting the enquiry or in the format prescribed under the Act. It is only a direction to District Collector to acquire land under Section 4(1) of the Act. Though an



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attempt was made later to acquire the land by private negotiation, the same also reported as failed. In such circumstances, the petitioner is the absolute owner as on date and therefore, the respondents shall not go near the property nor by showing the property as one, which is required for public purpose for future requirements. Till such time the respondents initiate fresh proceedings in the manner known to law, the petitioner's possession and her right and title shall not be disturbed in any manner.

3.Post the matter after two weeks.”

8.A perusal of the records filed in the above matter by the petitioners would clearly demonstrate that the document, which is held out to be publication under Section 4(1) does not confirm to the provisions of Section 4(1) of the Land Acquisition Act and on the contrary it is only a recommendation to acquire the lands. There is nothing on record produced by the respondents to show that the lands in question had been acquired. That apart, the order passed in W.P.(MD) No. 4259 of 2010 is not binding on the petitioners inasmuch as they have not been made as parties to the proceedings and the order is passed against the dead person, namely K.K.Narayana Raja.



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9.The learned Government Advocate appearing for the respondents had produced the order passed by this Court in the writ petition filed by the wife of the petitioner, Jeyarani in W.P.(MD) No.4259 of 2010 seeking a Mandamus to complete the acquisition proceedings in respect of the property comprised in S.No.363/1A Samanthapuram, Rajapalayam Taluk. This Court by order dated 24.02.2020 had dismissed the said writ petition with cost. While dismissing the same, this Court had observed that the lands had not been acquired and the document that has been put out as the publication under Section 4(1) was not in accordance with the prescribed format. This Court has clearly observed that the petitioner had come forward with the false case to mislead the Court with the notification that is not the notification in terms of Section 4 of the Act. This order admittedly has not been challenged.

10.In the light of the above discussion, it is amply clear that the property comprised in S.No363/1A, Sammanthapuram, Rajapalayam is not the subject matter of any acquisition and as per the revenue records continued to remain the property of the petitioners. Therefore, the impugned proceeding which forms the



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basis for making false claims has to necessarily be quashed and is accordingly quashed.

11. In fine, the Writ Petition is allowed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

14.06.2023

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To

1. The District Collector,
Virudhunagar District,
Virudhunagar.
2. The Tahsildar (Special),
Adiravidar Welfare,
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P.T.ASHA, J.

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