



W.P.(MD)No.9069 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :17.04.2023

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD)Nos.9069, 9074, 9075, 9076, 9079, 9081, 9082, 9084, 9086,
9087, 9089 and 9091 of 2020

and

W.M.P.(MD).Nos.8285 to 8287, 8292 to 8294, 8296, 8299, 8301, 8295,
8297, 8298, 8308, 8309, 8314, 8302, 8304, 8307, 8303, 8305, 8306, 8310,
8311, 8313, 8312, 8315, 8316, 8317 to 8319, 8321, 8323, 8327, and 8330 to
8332 of 2020

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Ayyakannu

Vs.

... Petitioner

- 1.The Principal Secretary to Government,
Public (Military) Department,
St.George Fort,
Chennai.
- 2.The Commissioner of Land Administration,
Chennai.
- 3.The District Collector,
Thanjavur District,
Thanjavur.
- 4.The Member Secretary,
The Local Planning Authority,
Thanjavur.



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5.The Block Development Officer,
Village Panchayat,
Inathukanpatti Village Panchayat,
Thanjavur.

6.The Public Information Officer/
P.A.to District Collector,
(General), Thanjavur.

7.The Public Information Officer/
P.A.to Revenue Divisional Officer,
Thanjavur.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarirfied Mandamus, calling for the records pertaining to the Impugned Government Order (Ms).No.148 Public (Military) Department dated 23.02.2018 of the first respondent insofar as acquisition of land proposed for rehabilitation package for Inayathukanpatti Villagers Under Urgency provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in respect of Land in Survey Nos.5/4C & 5/4D1 Inayathukanpatti Village, Thanjavur District from acquisition and consequently not to disposes from the property.



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For Petitioner :Mr.C.Deepak
For Respondents :Mr.R.Baskaran
Additional Advocate General assisted by
:Mr.D.Ghandiraj
Special Government Pleader
for R1 to R4, R6 & R7

:Mr.C.M.Marichellaiah Prabhu for R5

COMMON ORDER

By these writ petitions, the petitioners challenges the G.O. (Ms).No.148 Public (Military) Department dated 23.02.2018 of the first respondent.

2. The issue involved in these writ petitions is no longer res integra and it is covered by the decision of this Court dated 14.06.2019 passed in W.P.(MD).Nos.9070 of 2018 etc., of which W.P.(MD).No.9070 of 2018 (*K.Johnson v. The Principal Secretary to Government, Public (Military) Department and others*) was the lead case, this Court allowed the writ petitions in terms of directions issued in paragraph Nos.15, 16, 17 and 18 thereof. The above said directions are as follows:



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15. In view of the contrasting claims of the parties, the question that arise before this Court is whether the respondents are right in invoking the urgency provision under Section 40 of the Right to Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, for acquiring the 7.28.50 hectares of land belonging to the petitioners for the purposes of rehabilitation. The answer is a strict "No". The answer is in the negative, because Section 40 is an exception carved out under the Act for emergency purposes catering to demands of strategic national interests. While the expansion of airfield of Airforce Station, Thanjavur, qualify for the exception, the acquisition of land of the petitioners for the rehabilitation of displaced persons on account of the expansion of the said airfield does not qualify for the exception. This is so because, the power of the State for compulsive acquisition of land in itself an exception and not a rule in view of the right to property guaranteed under Articles 19 & 21 of the Constitution of India. Therefore, Section 40 of the Right to Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 should be sparingly used in cases of land acquisition.



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Adequate cautions have to be shown while invoking Section 40 of the Act. Otherwise, the principal object of the Act to involve constitutional bodies for local self-government and Gram Sabhas for consultations in matters of land acquisition will be defeated.

16. The other question that arise on account of the arguments put forth by the petitioners is whether the right of property of one set of persons can be alienated compulsorily for the purposes of accommodating/rehabilitating another set of people. In this connection, it is important to note that one of the important objects of the Act is to achieve a humane, participative, informed and transparent process of land acquisition with the least disturbance to the owners of the land. Therefore, it follows that rehabilitation need not necessarily be done in the land acquired for the project by disturbing more land owners. In the event, the rehabilitation is proposed in the land acquired for the project, it is imperative that equity is ensured in rehabilitation for all the land losers in the land acquisition proceedings. Nether the Act contemplate displacing one set of people for the purpose of rehabilitating another set of people, nor it



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is justified in the eyes of law. In my considered opinion, the land has to be restored to the petitioners as the same defy equity and Section 40 of the Act is wrongly invoked.

17. In view of the above discussion, the G.O. (MS).No.148 Public (Military) Department, dated 23.02.2018 of the first respondent insofar as the acquisition of land, covered under the three writ petitions, proposed for rehabilitation package for the displaced Inayathukanpatti Villagers under urgency provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is quashed and the respondents are directed to release the lands of the petitioners from acquisition forthwith.

18. With the above direction, these writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.



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2. The learned counsel for the petitioner and the learned Special Government Pleader submit that these writ petitions are squarely covered by the above decision of this Court.

3. Accordingly, these writ petitions are allowed in terms of the directions issued in paragraph Nos.15,16,17, and 18 of the order dated 14.06.2019 in W.P.(MD).Nos.9070 of 2018, etc. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

17.04.2023

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