



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.08.2023**

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRVARTHY**

**W.A(MD)NO.1358 OF 2023
and
C.M.P(MD)No.10334 of 2023**

S.Kulandaisamy :Appellant/Petitioner

.vs.

- 1.The Secretary to the Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat,
Chennai – 600 009.
- 2.The District Collector,
Collectorate,
Sivagangai District.
- 3.The Special Tahsildar(Adi-Dravidar and Tribal Welfare),
Sivagangai,
Sivagangai District.
- 4.The Tahsildar,
Tahsildar Office,
Manamadurai Taluk,
Sivagangai District. : Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent
praying this Court to set aside the order passed by this Court in
W.P(MD)No.13651 of 2023, dated 12.06.2023.



For Appellant : Mr.V.Meenakshisundaram
For Respondents : Mr.D.Sachi Kumar
1 to 4 Addl.Govt.Pleader

JUDGMENT*********

[Judgment of the Court was made by **S.S.SUNDAR,J.**]

This Writ Appeal is directed against the order of the learned Single Judge, dated 12.6.2023, in W.P(MD)No.13651 of 2023.

2.Mr.D.Sachikumar, learned Additional Government Pleader takes notice for the respondents 1 to 4. By consent of both parties, the Writ Appeal is taken up for final disposal at the admission stage itself.

3.The Appellant/Writ Petitioner is the owner of the lands in S.Nos.187/1E, 187/1F and 187/1G, totally measuring an extent of 0.57.5 hectares in D.Nedungulam Village, Therkusanthanur Group, Manamadurai Taluk, Sivagangai District. There is no dispute regarding the ownership of the land held by the Petitioner and his family members.

4.The first respondent had initiated acquisition proceedings in respect of the Petitioner's land for the purpose of Adi Dravidar



Welfare Scheme and a notification under Section 4(1) of the Tamil Nadu Land Acquisition Act was issued on 13.06.1990 which was also published in the Gazette on 14.07.1990. The Petitioner's father challenged the notification issued by the first respondent before the Principal Bench of this Court in W.P.No.9476 of 1993. He also obtained an order of interim stay and later, the Writ Petition was allowed by the Principal Bench of this Court on 28.03.2001. It is to be noted that the acquisition proceedings were quashed in its entirety on the ground that one of the main objection placed by the Petitioner in the Writ Petition that they would offer an alternative land instead of acquiring the lands in above three survey numbers, as referred to above was not considered. While allowing the Writ Petition and quashing the entire acquisition proceedings in its entirety, liberty was given to the respondents to initiate fresh acquisition proceedings to acquire the alternative land suggested by the Writ Petitioner/appellant. Despite the fact that in the earlier Writ Petition filed by the Petitioner's father, the acquisition proceedings were quashed in its entirety, it appears that patta for the said lands had not been re-transferred in the name of the Petitioner and his family members. Therefore, it prompted the Petitioner to file a Writ Petition in W.P(MD)No.13651 of 2023, seeking issuance of a Writ of Mandamus directing the respondents



to restore the patta in respect of the lands in the above mentioned survey numbers in S.NO.187/1E, 187/1F and 187/1G, totally measuring an extent of 0.57.5 hectares in D.Nedungulam Village, Therkusanthanur Group, Manamadurai Taluk, Sivagangai District, in the light of the order passed in the earlier Writ Petition quashing the acquisition proceedings.

5.Strangely, the learned Single Judge, dismissed the Writ Petition holding that the Petitioner, who offered alternative lands at the time of disposal of the earlier Writ Petition, has not surrendered the land to the respondents and that therefore, the Writ Petition is liable to be dismissed, as the prayer is solely misconceived. The learned Single Judge while dismissing the Writ Petition, had imposed a cost of Rs.50,000/- to be paid on or before 31.07.2023 to the District Legal Services Authority, Sivagangai. From the admitted facts, this Court is unable to sustain the said order on any account. First of all, though the order of this Court is extracted by the learned Single Judge, the learned Single Judge had failed to take note of the fact the acquisition proceedings initiated earlier, was quashed and therefore, the lands should be treated as a land held by the Petitioner and his family members. This Court has only given liberty to the respondents to initiate fresh proceedings to



acquire the land offered by the Petitioner for the same purpose of providing house-sites to the Adi dravida people as proclaimed earlier in the acquisition proceedings, after giving due opportunity to the Petitioner and to all the parties concerned. In the absence of any fresh proceedings to acquire the lands of the Petitioner, the respondents ought to have restored the patta in the name of the Petitioner. The fact that the revenue records stood in the name of the Petitioner's father and his family members, is not in issue. It is only by virtue of previous acquisition proceedings, the revenue records have been changed. When the Writ Petition filed by the Petitioner's father was allowed quashing the entire acquisition proceedings, the respondents ought to have restored the patta in the name of the Petitioner and his family members, as it stood originally.

6. In such circumstances, the Writ Appeal is allowed and consequently, the prayer sought for in W.P(MD)No.13651 of 2023 is ordered. The respondents are directed to restore the patta in favour of the legal heirs of the Writ Petitioner in the earlier Writ Petition in W.P.No.9476 of 1993, within a period of two weeks from the date of receipt of a copy of this order. In case, the respondents failed to restore the patta in favour of the Writ Petitioner/appellant as



indicated by this order, the respondents shall pay a sum of Rs. 50,000/-(Rupees fifty thousand only) towards cost directly to the appellant/Writ Petitioner. Consequently, connected Miscellaneous Petition is closed.

[S.S.S.R.,J.] [D.B.C.,J.]
21.08.2023

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

To

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S.S.SUNDAR, J.
AND
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JUDGMENT MADE IN
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