



W.P.(MD) No.11232 of 2014.

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.01.2023

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

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- 1.Bose
- 2.Sundaram
- 3.Muthu
- 4.Iruthayaraj
- 5.Vedhanayagam
- 6.Bose
- 7.Ras
- 8.Panchavarnam
- 9.Boomi
- 10.Pandi
- 11.Chandran
- 12.Muthiah
- 13.Savarimalai



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- 14.Muthiah
 - 15.Kathiresan
 - 16.Periyasamy
 - 17.Muthiah
 - 18.Mahalingam
 - 19.Palani
 - 20.Karuppiah
 - 21.Karuppiah
 - 22.Theivakani
 - 23.Azhagar
 - 24.Backiyaraj
 - 25.Jothi
 - 26.Ammavasai
 - 27.Palraj
 - 28.Doss
 - 29.Ganesan
 - 30.Raju
 - 31.Baskaran
- 2/11



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32.Pushpam

33.Naga Rethinam

... Petitioners

/vs./

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The District Adi Dravidar Welfare Officer,
Sivagangai District,
Sivagangai.

3.The Special Tahsildar (Land Acquisition),
The District Adi Dravidar Welfare Department,
Sivagangai District,
Sivagangai.

4.The Tahsildar,
Manamadurai Taluk,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents to conclude their acquisition proceedings as per the order dated 17.12.2003 made in W.P. No. 645 of 1997 on the file of the this Court and allot free house site to the petitioners for constructing house in the lands bearing Survey Nos.3/1B1-1A1, to an extent of 1.79.5 Hectares, situated in D.Nelmudikarai Village, Sivagangai District or otherwise allot free house site patta to the Petitioners in some other alternate lands as per the order dated 09.04.2010 made in W.P. (MD) No. 4803 of 2010 on



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the file of this Court within the time that may be stipulated by this Court by considering the Petitioner's representation dated 28.06.2013.

For Petitioners : Mr.P.Andiraj

For Respondents : Mr.M.Prakash
Additional Government Pleader

ORDER

The prayer in the writ petition is for a Mandamus to direct the respondents to conclude their acquisition proceedings as per the order dated 17.12.2003 made in W.P. No. 645 of 1997 by this Court and allot free house site to the petitioners for constructing house in the lands bearing S.No.3/1B1-1A1, to an extent of 1.79.5 hectares, situated in D.Nelmudikarai Village, Sivagangai District or otherwise allot free house site patta to the Petitioners in some other alternate lands as per the order dated 09.04.2010 made in W.P. (MD) No. 4803 of 2010.

2.The case of the petitioners is that the land acquisition proceeding under Section 4(1) of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 was published by the first respondent on 12.01.1996 seeking to acquire various lands for the benefit of Harijan people residing in the area. Pursuant to the



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said acquisition proceedings, the petitioners were also issued with assignment orders.

3.The land owners had approached this Court challenging the acquisition proceeding in W.P.No.645 of 1997. This Court, by order dated 17.12.2003, had quashed the land acquisition proceedings. However, liberty was given to the first respondent herein to proceed afresh from the stage at which the irregularity had occurred. Thereafter, the first respondent had not initiated any action. Hence, one of the petitioners had approached this Court in W.P.(MD).No.4803 of 2010 seeking for a direction to permit the petitioner therein and other pattathars to construct houses in the land that has been acquired, pursuant to the notification dated 12.01.1996.

4.A Division Bench of this Court, by order dated 09.04.2010, dismissed the said writ petition taking into consideration that the land acquisition proceedings had been quashed. The Division Bench had also permitted the respondents either to conclude the proceeding as per law or in the alternative to allot some other lands to the petitioners. After the disposal of the writ petition, the



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petitioners herein have been repeatedly approaching the first respondent seeking for allotment of lands to construct their houses. As no response came from the first respondent, the petitioners had approached this Court with the instant writ petition.

5.Heard Mr.P.Andiraj, learned counsel for the petitioners and Mr.M.Prakash, learned Additional Government Pleader for the respondents.

6.Mr.P.Andiraj, learned counsel for the petitioners would submit that by communication dated 25.07.2012, the third respondent herein had informed the petitioners that pursuant to the orders of this Court in W.P.(MD) No.4803 of 2010, when a land is identified, the acquisition proceeding should be initiated and thereafter, the beneficiaries would be allotted house sites. Thereafter, nothing had happened and therefore, the present writ petition has been filed. Hence, he would submit that when the order of this Court had specifically directed the respondents to take appropriate action, the respondents ought to have acquired some lands and allotted the same to the petitioners.



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7.Countering his arguments, Mr.M.Prakash, learned Additional Government Pleader for the respondents would submit that the prayer sought for in this writ petition cannot be granted. He would rely upon the order of the Division Bench of this Court made in ***W.P.(MD).No.4803 of 2010 (Bose Vs. The District Collector, Sivagangai District and others) dated 09.04.2010***, to submit that when the petitioners had sought for a direction to permit them to construct houses in the lands that were acquired, the same has been rejected. But however, a direction has been issued either to continue or find out a suitable land for allotment. The third respondent had also issued a communication to that effect. Since this writ petition was subjudice before this Court, the respondents have not proceeded any further.

8.He would further submit that as the land acquisition proceedings, which were the subject matter of the writ petition in W.P.No.645 of 1997, were quashed by this Court as early as in 2003, the respondents could not proceed any further on the same notification and therefore, he would submit that this Mandamus to implement the direction issued in the writ petition should not be granted.



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9.I have considered the rival submissions made by the learned counsels on either side.

10.The prayer is to conclude the acquisition proceedings initiated in the year 1996. The said acquisition proceedings were quashed by this Court on 17.12.2003. But however, liberty has been granted to the respondents to continue the land acquisition proceedings from the stage, in which the error had occurred. The land acquisition proceedings have been quashed on the ground that notices to the interested persons have not been served. Therefore, the notification issued under Section 4(1) of the Act 31 of 1978 has been quashed.

11.The notification issued under Section 4(2) of the Act has been left intact. It is almost 26 years, when the first notification has been issued and during this long period of time, some third parties' rights may have arisen either by alienation of the property or by inheritance. Hence, if the respondents are directed to conclude the proceedings based upon the notice issued under Section 4 (2) in the year 1996, it would again affect the interests of various persons, who had subsequently acquired interest. Therefore, the liberty granted by this Court in



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W.P.No.645 of 1997 cannot be directed to be implemented at this long distance of time. Hence, the writ petition as prayed for by the petitioners cannot be ordered.

12.However, considering the fact that in the subsequent order, a Division Bench of this Court in W.P.(MD).No.4803 of 2010 has directed the first respondent to consider allotting some other Government land or initiate steps for making any application for allotting any house sites for the beneficiaries, so as to provide them residential accommodation and also the fact that the third respondent herein had also intimated the petitioners that as and when the lands are acquired, the beneficiaries would be given the land, the petitioners are directed to make fresh representations to the first respondent seeking for allotment of house sites within a period of two weeks from the date of receipt of a copy of this order. The first respondent on receipt of such representation, if any, shall consider the request of the petitioners and pass appropriate orders on merits and in accordance with law, within a period of 12 weeks thereafter.



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13. With the above observations and directions, the Writ Petition is disposed of. However, there shall be no order as to costs.

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

05.01.2023

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To

1. The District Collector,
Sivagangai District,
Sivagangai.
2. The District Adi Dravidar Welfare Officer,
Sivagangai District,
Sivagangai.
3. The Special Tahsildar (Land Acquisition),
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K.KUMARESH BABU, J.

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