



W.P(MD)No.17020 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.07.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.17020 of 2014
and
M.P.(MD)No.2 of 2014

1.Krishnamoorthy
2.Padmavathi

... Petitioners

Vs.

- 1.Government of Tamil Nadu,
Rep. by the Secretary,
Industries Department,
Secretariat, Chennai.
- 2.Jeyasree Muralidharan,
The District Collector,
Collectorate,
Trichirappalli District.
- 3.The Special District Revenue Officer,
Land Acquisition for Tamil Nadu News
Print and Paper Publication Ltd.,
Collectorate, Trichy.
- 4.The Tahsildar,
Manapparai Taluk,
Trichy District.
- 5.The Director (O & M),
Tamil Nadu News Print and Paper Publication Ltd.
Kakithapuram, Karur.



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6.The Sub Collector (Land Acquisition),
Manapparai, Trichirappalli.

7.Tharpagaraj,
The District Revenue Officer,
Collectorate, Trichy.

8.Janani Sowndarya,
Revenue Divisional Officer,
Cholan Nagar, Ramji Nagar Post,
Srirangam Taluk, Trichy.

9.Abdullah,
The Special Tahsildar,
Tamil Nadu Paper Board Limited,
Mondipatti Jurisdiction,
Manapparai, Trichirappalli District.

10.Ramamoorthy,
The Special Deputy Tahsildar,
Tamil Nadu Paper Board Limited,
Mondipatti Jurisdiction,
Manapparai, Trichirappalli District.

11.Karunakaran,
Inspector of Police,
Manapparai,
Trichirappalli District.

12.Thangavel,
Inspector of Police,
Thuvarankurichi,
Trichirappalli District.

13.M.Mutharasu,
Deputy Superintendent of Police,
Fathimamalai, Manapparai.



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14.Rajeswari,
Superintendent of Police,
Subramaniapuram,
Trichy 20.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to call for the records from the 2nd respondent, by directing the respondents 2 to 14 who are all personally, jointly and severally liable to pay the damages of Rs.7 crores to the petitioners for the cut off the trees, decoited and damaged the field and the house building of the same by creating mental agony, anguish, degrading their decency, dignity and status on the basis of arbitrary, illegal trespass.

For Petitioners : Mr.N.R.Murugesan

For Respondents : Mr.N.Satheesh Kumar,
Addl. Govt. Pleader for R1 to R4 & R6 to R14.
Mr.M.P.Senthil for R5.

ORDER

Heard the learned counsel on either side.

2.The writ petitioners seek damages to the tune of Rs.7 Crores from the respondents for having entered upon their lands and unlawfully cut and removed the standing trees.

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3.The learned counsel for the petitioners reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for.

4.The respondents have filed counter affidavits and the learned Additional Government Pleader for the official respondents as well as the learned counsel for TNPL took me through their contents.

5.The land belonging to the writ petitioners was acquired by the Government of Tamil Nadu to enable TNPL to set up their Unit – II in Manapparai Taluk. The proceedings were initiated under Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997. Notice issued under Section 3(2) of the Act was served on the petitioners on 23.10.2013 inviting their objection. The petitioners offered their objections. They were, however, rejected on 28.11.2013. Notice under Section 3(1) of the Act was published on 27.12.2013. Notice under Section 4(2) of the Act was served on the petitioners on 25.01.2014 calling upon them to surrender the lands. Instead of complying with the said demand, the petitioners filed W.P.(MD)Nos.4397 and 4398 of 2014 before this Court on 17.02.2014.



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6. The stand of the petitioners is that the papers were served on the office of the Government Pleader and even though the respondents had knowledge of the institution of writ proceedings, they proceeded to dispossess the petitioners on 26.02.2014. The petitioners allege that even without taking an inventory in the presence of the petitioners, the respondents by displaying the official might cut and removed hundreds of fruit-bearing trees standing on their lands. Seeking compensation for the act committed by the respondents, the present writ petition came to be filed.

7. The only question that calls for consideration is whether any relief can be granted to the petitioners herein in this writ proceeding.

8. It is firm necessary to examine the statutory scheme underlying Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997. Sections 3 and 4 of the said Act read as under:-

“3. Power to acquire land.- (1) If, at any time in the opinion of the Government, any land is required for any industrial purposes, or for any other purpose in furtherance of the objects of this Act, they may acquire such land by



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publishing in the Tamil Nadu Government Gazette a notice specifying the particular purpose for which such land is required.

(2) Before publishing a notice under sub-section (1), the Government shall, call upon the owner and any other person, who in the opinion of the Government may be interested in such land, to show cause within such time as may be specified in the notice, why the land should not be acquired. The Government shall also cause a public notice to be given in such manner as may be prescribed.

(3) The Government may pass an order under sub-section (1) after hearing and considering the cause, if any, shown by the owner or person interested.

4.Land acquired to vest in Government free from all encumbrances.- *(1) When a notice under sub-section (1) of section 3 is published in the Tamil Nadu Government Gazette, the land to which the said notice relates shall, on and from the date of such publication, vest absolutely in Government free from all encumbrances:*

Provided that if before actual possession of such land is taken by, or on behalf of, the Government, it appears for Government, that the land is no more required for the purpose of this Act, the Government may, by notice published in the Tamil Nadu Government Gazette, withdraw the land from acquisition. On the publication of such notice, the land shall revert with retrospective effect in the person from whom it was



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divested on the issue of order under sub-section (1) of section 3, subject to such encumbrances, if any, as may be subsisting at that time:

Provided further that the owner and other persons interested shall be entitled to payment of an amount as determined in accordance with the provisions of section 7 for the damage, if any, suffered by them in consequence of the acquisition proceedings.

(2) Where any land is vested in the Government under sub-section (1), the Government may, by order, direct any person who may be in possession of the land to surrender or deliver possession thereof to the Collector or any person duly authorised by him in this behalf within thirty days of the service of the order.

(3) If any person refuses or fails to comply with an order made under sub-section (2), the Collector may take possession of the land, and may, for that purpose, use such force as may be necessary.”

9. As per Section 4(1) of the Act, upon publication of notice under Section 3(1) of the Act, the land will vest in the Government absolutely free from all encumbrances. Section 4(1) of the Act corresponds to Section 16 of the Land Acquisition Act, 1894 and Section 40 of the Right



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to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. It is true that the petitioners had filed W.P.(MD)Nos.4397 and 4398 of 2014 on 17.02.2014. Though the learned counsel for the petitioners claimed that mention was made before this Court, the record shows that an interim order of status quo was passed only on 03.09.2014. There is another aspect. Unfortunately, the petitioners failed to challenge the notice issued under Section 3(1) of the Act. The petitioners had chosen to challenge only Section 3(2) notice. In my view, the said writ petitions were infructuous at the very inception. The said writ petitions along with two other writ petitions filed by the petitioners suffered dismissal on 23.01.2015. Questioning the same, the petitioners filed W.A.(MD)Nos.222 and 223 of 2015 and they were dismissed as withdrawn on 21.12.2015.

10. I do not find any merit in the contention of the petitioners' counsel that the authorities ought not to have rushed through the process after having knowledge that the petitioners have filed writ petitions before this Court. Unless the hands of the authority are tied by a restraint order, the authority will be justified in proceeding further. Reference to



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Section 115 (3) of the Code of Civil Procedure is relevant in this context.

Under Section 115(1) of CPC, revisional remedy is provided. Sub-section 3 states that a revision shall not operate as a stay of suit or other proceeding before the Court except where such suit or other proceeding is stayed by the High Court. This was inserted by the 1999 amendment. In other words, merely because a party to a suit files a CRP against an interim or interlocutory order, the trial Court cannot be expected to keep its proceedings in abeyance by citing the pendency of revision. There must be a specific order of stay. The petitioners' counsel's contention can be rejected on analogical grounds. Otherwise the consequences can be quite serious. A writ petition may take years to get disposed of. The department cannot wait till the disposal of the case. The project cost will escalate in the meanwhile. I can conceive of a situation. A writ petition is filed against a proposed executive action. The executive does not proceed in the matter. The writ petition gets dismissed after two years. When the executive is about to proceed in the matter, another writ petition is filed. If I were to agree with the learned counsel for the petitioners, the executive must wait till the conclusion of the second writ petition. The result will be absurd.



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11. As already noted, as a consequence of publication of Section 3(1) notice, the property had already vested in the hands of the Government. The said order was not even challenged. Admittedly, no stay was in operation. The respondents were right in taking possession of the acquired lands. They had only discharged their statutory duties. It would be unreasonable to fault them.

12. The present writ petition was filed during the pendency of W.P. (MD)Nos.4397 and 4398 of 2014. The said writ petitions had been dismissed. The foundational facts are one and the same. Hence, this writ petition cannot survive independently. It has to meet the very same fate that befell the other writ petitions.

13. The learned Additional Government Pleader also draws my attention to the award passed by the District Revenue Officer, Trichy in favour of the petitioners on 25.04.2019. The petitioners had ample opportunities to place their case before the award officer. It is seen therefrom that in the award enquiry, a sum of Rs.50,92,523/- was fixed as compensation towards the value of the trees. A total sum of Rs.3,12,48,305/- was paid as compensation to the petitioners herein. If



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they felt aggrieved, they could have availed the remedy provided by the statute. It is submitted by the learned counsel for the respondents that compensation was paid to the petitioners as per the Central Act No.30 of 2013. The demand is for payment of compensation. It had already been paid in award proceedings conducted subsequently during the pendency of this writ petition. The cause of action no longer survives. There is nothing to adjudicate in this writ petition.

14.This writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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

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