

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.08.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.5642 of 2015

K.Narayanan

... Petitioner

Vs.

1.The District SC/ST Welfare Officer,
Sivagangai District,
Sivagangai.

2.The Tahsildar SC/ST Welfare,
Sivagangai,
Sivagangai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 1st respondent by his proceeding Na. Ka.W1/6847/2014 dated 29.10.2014 and consequently directly respondents to return back the petitioner's land in survey No.18/1 to the extent of 2 Acres and 47 cents situated in Karunsuthi village, Ilayankudi Taluk, Sivagangai District.

For Petitioner : Mr.N.Sekar

For Respondents : Mr.D.Gandhiraj
Special Government Pleader

ORDER

Heard the learned counsel on either side.

2. The petitioner owned the petition mentioned land measuring an extent of two acres and 47 cents in Karunsuthi Village in Ilayankudi Taluk. In the year 1988, the land was acquired by the Government for the welfare of the Adi-Dravidar people. The case of the petitioner is that the purpose for which the land was acquired has not been effectuated and that he continues to be in possession and enjoyment of the land till date. The petitioner therefore wanted the Government to return the land. Since the request was not considered, he filed W.P.(MD)No.4801 of 2014. This Court vide order dated 19.03.2014 directed the Government to consider the petitioner's application. Pursuant to the direction given by this Court, the impugned order came to be passed rejecting the petitioner's request. Challenging the same, the present writ petition came to be filed.

3. The learned counsel appearing for the petitioner 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 affidavit and the learned Special Government Pleader took me through its contents. He pressed for dismissal of the writ petition.

5. I carefully considered the rival contentions and went through the materials on record.

6. It is beyond dispute that the acquisition proceedings had attained finality. The only question that calls for consideration is whether the petitioner is entitled to get back the lands. It is quite possible that the petitioner is in physical possession as on date. But that is not determinative of the issue.

7. The specific stand of the respondents is that assignment orders had been passed in favour of a number of beneficiaries and that the assigned lands have already been duly earmarked. It is possible that the petitioner has managed to be in possession. But as rightly pointed out by the learned Special Government Pleader, the petitioner's possession amounts to trespass. The core question that calls for consideration is whether the petitioner has any legal right to call upon the Government to return the land. It is well settled that even if the

purpose for which the land was acquired was not fulfilled, still the Government is entitled to use the land for some other public purpose. But in this case, the Government informs the Court that the lands have already been handed over to the beneficiaries. Section 48 B of the Land Acquisition Act, 1894 Act is as follows:-

48-B.Transfer of land to original owner in certain cases:- Where the Government are satisfied that the land vest in the Government under this Act is not required for the purpose for which it was acquired or for any other public purpose, the Government may transfer such land to the original owner who is willing to repay the amount paid to him under this Act for the acquisition of such land inclusive of the amount referred to in sub-section (1-A) and (2) of Section 23, if any, paid under this Act.

8. The matter is left to the discretion of the authorities. The erstwhile land owner cannot demand anything as a matter of right. In this case, the compensation amount payable to the petitioner is said to have been already tendered. In these circumstances, when the authorities by a speaking order have taken the stand that the land cannot be returned, it is not for the writ Court to interfere. The order impugned in the writ petition is sustained. The Writ Petition is dismissed. No costs.

29.08.2023

Index : Yes / No
Internet : Yes/ No
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To

- 1.The District SC/ST Welfare Officer,
Sivagangai District,
Sivagangai.
- 2.The Tahsildar SC/ST Welfare,
Sivagangai,
Sivagangai District.

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G.R.SWAMINATHAN, J.

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