



W.A.Nos.1590 & 1591 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.A.Nos.1590 & 1591 of 2013

1. L. Jagannath (Died)

2. J. Thulasidaran (LRS of A1)

... Appellants
in both the Writ Appeals.

Vs.

1.The Land Acquisition Officer,
& Revenue Divisional, Palani.

2. The Chief Engineer, PWD,
Pollachi Region,
Office Of Coimbatore.

3. The Superintending Engineer,
PWD. Palani.

4.The Executive Engineer, PWD,
Nanganjiyar Reservoir Project Palani.

5. M/S Narendra Dairy Farms (P) Ltd.
By Its Managing Director And
Directors, Neikarapatti, Palani.

6. V.Duraisinga Lakshmana Naicker,



W.A.Nos.1590 & 1591 of 2013

7. Santhana Lakshmi

8. Devika

9. Rajesh

10. Pankajavalai

11. Yamini Mahalakshmi

12. Sathishkumar

13. Geetha Lakshmi

14. Yasoda

15. Kiruthika

... Respondents
in both the Writ Appeals.

[A1(died). A2 (already on record) and R13 to R15 as LRS of deceased A1].

[A1 (died) is substituted by the respondents R13 to R15 who were brought on record as LRS of deceased A1, vide order of court dated 28/06/2024 made in CMP.Nos.15267 and 15269 of 2021 in WA.Nos.1590 and 1591 of 2013 (SMSJ and CKJ)]

Prayer in W.A.No.1590/2013:- Writ Appeal filed under Clause 15 of the Letters Patent Act, to set aside the order passed in W.P.No.4048 of 2003 dated 21.01.2011.

Prayer in W.A.No.1590/2013:- Writ Appeal filed under Clause 15 of the Letters Patent Act, to set aside the order passed in W.P.No.4049 of 2003 dated 21.01.2011.



W.A.Nos.1590 & 1591 of 2013

For Appellant in both
the Writ Appeals : Mr.A.K.Sriram, Senior Counsel for
Mrs.P.Veena Suresh and
Mr.T.R.Raja Raman

For Respondents in both
the Writ Appeals : Mr.A.Selvendran,
Special Government Pleader
(for R1 to R4);

: Mr.V.P.Sengottuvel, Senior Counsel for
Mr.M.Saravana Kumar (for R5 to R12)

: Mr.M.Rajasekhar (for R13-15)

COMMON JUDGEMENT

(Judgement of the Court was delivered by S.M.Subramaniam J.)

The Intra Court appeals on hand have been instituted challenging the common order dated 21.01.2011 in W.P.Nos.4048 and 4049 of 2003. The writ petitioners are the appellants before us.

2. During the earlier round of litigation, the Division Bench of this Court rejected the claim of the appellants for impleading themselves in the appeal suit proceedings. The said order was confirmed by the Hon'ble Supreme Court of India with a liberty to adjudicate the issues in a writ proceedings.



W.A.Nos.1590 & 1591 of 2013

3. It is not in dispute between the parties that the land acquisition proceedings, under the old Act, had been initiated for public purposes. More specifically, for construction of a dam namely Palar-Porunthalaru dam at Palani Taluk, Dindigul District.

4. The core contention of the learned Senior Counsel, Mr.A.K.Sriram, assisted by Mrs.P.Veena Suresh for appellants, is that when the acquisition proceedings were initiated at the first instance, the appellants received Notice under Section 4(1) of the Land Acquisition Act. However, it was not proceeded with. Meanwhile the dam was constructed. In the year 1990, a fresh acquisition proceedings were initiated and 4(1) Notification was not issued to the appellants. When the names of the appellants were not found in the fresh 4(1) Notification issued in the year 1990, they had no knowledge about the acquisition proceedings at all. However, the appellants were in possession of the land in question. Therefore, they should be construed as interested persons for all purposes.

5. The specific contention of the appellants are that M/S Narendra Dairy Farms (P) Ltd., resolved to purchase immovable properties to an extent of 31.79 acres in Ayyampulli Village, Palani Taluk from Kullamma Naicker



W.A.Nos.1590 & 1591 of 2013

for a total consideration Rs.1,75,000/-. The company purchased 445 acres in Padachu village, Balasamudram village and Ayyampulli village for a valid sale consideration of Rs.1,75,000/- under sale deed dated 23.12.1959. Since the company was not in a position to use the lands in Ayyampulli village, the company reconveyed the land measuring 31.79 acres in Ayyampulli village under a sale deed dated 30.03.1960 in favour of said Kullamma Naicker. Out of the total consideration of Rs.1,75,000/- under the sale deed dated 23.12.1959, the company paid only Rs.10,000/- to the vendor Kullamma Naicker and the balance amount was withheld.

6. These facts, leading to withholding of the balance sale consideration, cannot be adjudicated in a writ proceedings. The fact remains that the Government initiated acquisition proceedings afresh in the year 1990 and no Notice was issued to the appellants under Section 4(1) of the Land Acquisition Act. Thus, the appellants have not filed their objections nor participated in the award proceedings and the compensation was finally settled by the Land Acquisition Officer in favour of respondents 6 to 12, who were the owners of the acquired land.



W.A.Nos.1590 & 1591 of 2013

7. The learned Special Government Pleader, Mr.A.Selvendran, appearing on behalf of the Respondents 1 to 4 would oppose by stating that Notifications were published and the lands were acquired for construction of dam and people in that locality were aware of the acquisition proceedings. Mr.V.P.Sengottuvel, learned Senior Counsel for the respondents 5 to 12 would also oppose by stating that the land belongs to the appellants were also acquired and they received compensation for the said lands. While so, their contention that they had no knowledge about the acquisition proceedings is incorrect and false.

8. 4(1) Notification was approved and published in the Tamil Nadu Government Gazette on 11.09.1990 and the substance of the notification was published in the locality on 24.10.1999. Declaration under Section 6 of the Act was approved and published in the Tamil Nadu Government Gazette on 10.06.1991 and the direction under Section 7 of the Act was published in the Tamil Nadu Government Gazette on 13.11.1991. General Notice under Sections 9(1) and 10 of the Land Acquisition Act was published on 10.10.1992 to file objections by 19.10.1992. Subsequently, award inquiry was conducted on 19.10.1992. The objections were considered and award was passed in award proceedings in R.O.C.No.2715/89 A2 vide Award



W.A.Nos.1590 & 1591 of 2013

No.8/92(A2) and R.O.C.No.2372/89 A2 vide Award No.7/92 (A2) respectively, dated 10.02.1993.

9. Mr.A.K.Sri Ram, learned Senior Counsel for the appellants would mainly rely on Section 3(b) of the Land Acquisition Act, 1894, which provides definition for “**person interested**” which stipulates that “*the expression person interested includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land*”. In the present case, the appellants are interested persons since they received 4(1) Notification when the land was proposed to be acquired originally, prior to the year 1990. That apart, the appellants were in possession of the land. Therefore, they have to be construed as interested persons and are entitled for compensation.

10. We are of the considered opinion that the provisions of the Land Acquisition Act cannot have any application with reference to the claim of the appellants. The appellants admittedly were not considered as owners of the lands acquired for public purposes. That being so, they have to establish their right in the manner known to law. The High Court, in exercise of



W.A.Nos.1590 & 1591 of 2013

powers of judicial review, is not expected to adjudicate such nature of disputes relating to civil rights.

11. Admittedly the appellants were not recognised as land owners and admittedly they have not participated in the award proceedings. It is brought to the notice of this Court that the claim of the appellants that they are interested persons were also negated by this Court. When the application of the Land Acquisition Act itself cannot be availed of by the appellants, considering the provisions of the Act would not arise at all. The appellants have to primarily establish before the competent Civil Court that they are interested persons in respect of the lands acquired for public purposes. In the absence of establishing the said factum, the authorities may not be in a position to consider their case for grant of compensation. The findings of the Writ Court, crystalizing the rights of the parties may not be required. Civil rights are to be crystalized in a trial natured proceedings before the competent Civil Court. Based on certain averments in the writ petition, such rights of civil nature cannot be established. It requires recording of evidence and therefore, we are of the considered opinion that the appellants have to establish their civil right, as interested persons, before the competent Civil Court of law.



W.A.Nos.1590 & 1591 of 2013

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12. As far as the Government is concerned, they have concluded the land acquisition proceedings in all respects, constructed the dam which is now in public usage. The compensation determined was deposited and respondents 6 to 12 have already received the compensation. Under these circumstances, if at all the appellants claim that they are interested persons within the definition of the Act, they have to first establish that they are interested persons, thereafter, approach the authorities to consider their claims. In the absence of establishing the same, the appellants are not entitled to seek any relief in a writ proceedings under Article 226 of the Constitution of India.

13. Under these circumstances, we do not find any reason to interfere with the decision arrived by the Writ Court. However, we are of the opinion that findings regarding crystallization of the civil rights of the parties became unnecessary and such rights are to be established only in the manner known to law. Therefore, the appellants are at liberty to approach the Civil Court for the purpose of establishing their claim as interested persons, if they have any legally enforceable right. In the absence of establishing the same, they are not entitled for any relief. In the event of instituting a suit at the instance of



W.A.Nos.1590 & 1591 of 2013

the appellants, the findings, if any made by the Writ Court, need not be considered and such suits are to be decided uninfluenced by the factual findings made in the order passed in the Writ Petitions or in the Writ Appeals.

14. However, the decision arrived by the Writ Court is in consonance with the provisions of the Land Acquisition Act since the appellants could not able to establish any enforceable right under the provisions of the Land Acquisition Act.

15. Thus, the the writ order stands confirmed and the writ appeals are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S.J.,)

(C.K.J.,)

09.07.2024

Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

(sha)



W.A.Nos.1590 & 1591 of 2013

To
WEB COPY

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W.A.Nos.1590 & 1591 of 2013

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W.A.Nos.1590 & 1591 of 2013

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