



Rev.Appln.No.40 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 22.02.2024

PRONOUNCED ON : 05.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE **P.VELMURUGAN**

Review Application No.40 of 2012 and
W.M.P.No.1318 of 2017

1. Parvatha (deceased)
 2. Lakshmi Bai
 3. Devisree
 4. R.Vijaya Sarangapani
- (P3 and P4 are substituted as LRs. of
the deceased P1 as per the order dated
21.11.2023 in WMP No.32342 of 2022)

... Petitioners

Vs.

1. State of Tamil Nadu
Rep. by its Secretary,
Adi Dravidar and Tribal Welfare Department,
Fort St. George, Chennai - 600 009.
2. The Special Tahsildar,
Adi Dravidar and Tribal Welfare Department,
Salem - 9.



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3. The Commissioner of Land Administration,
Chepauk, Chennai - 600 005.

... Respondents

Prayer: Review Application is filed under Article 226 of the Constitution of India and Order 47 Rule 1 r/w. Section 114 of C.P.C., to review the order of this Court dated 01.12.2010 made in W.P.No.14857 of 2002 and allow this review petition and permit the petitioners to effectively put forward their case on merit.

For Petitioners : Mr.S.Parthasarathy, Senior Advocate
Assisted by Mr.J.Ramakrishnan

For Respondents : Mr.J.Ravindran, Addl. Advocate General
Assisted by Mr.T.Arun Kumar, AGP

ORDER

This review application has been filed to review the order of this Court dated 01.12.2010 made in W.P.No.14857 of 2002.

2 The review applicants have filed the writ petition in W.P.No.14857 of 2002 seeking Writ of Certiorarified Mandamus to call



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for the records relating to the notifications in G.O.3(D) No.732 dated 12.10.1992 and G.O.3(D) No.642 dated 16.09.1993 and quash the same in so far as it relates to the property of the petitioners in Survey No.32/2 measuring 3.11.5 hectares situated in Neikarapatti, Salem District and direct the respondents to consider the case of the petitioners in the light of the letter of the first respondent in Lr.No.47378/La IV/94 dated 11.04.1996 and consequently denotify the said land of the petitioners from the land acquisition proceedings vide the aforesaid two government orders.

3 The learned Single Judge, by order dated 01.12.2010 dismissed the writ petition stating that the earlier writ petition filed by the writ petitioner seeking the same prayer was dismissed as withdrawn without any liberty and the writ petitioner was granted liberty to approach the Civil Court to withdraw the compensation amount, which is the order, now sought to be reviewed.



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4 It is the case of the review applicants that the writ petition was filed through their counsel one M.Kandasamy in the year 2002 and unfortunately he died and hence the review applicants engaged a new counsel one K.Selvaraj, who has filed change of vakalat, but entries were not made and the vakalat was not put up in the case bundle and hence when the case was listed, name of the new counsel viz. K.Selvaraj was not printed and the earlier counsel name only printed and therefore he has not appeared. The writ petition was disposed on merits without effective representation of the petitioner and hence certain important facts and legal submissions were not informed to this Court.

4.1 On 03.02.2012 the officials of Special Tahsildar, Adi Dravidar and Tribal Welfare came along with Surveyor and inspected the petitioners' land, the first petitioner's husband told them that writ petition



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is pending in High Court, hence they should not interfere with the peaceful possession, for which, the officials said that it was already disposed off and when the petitioners asked for a copy of the order, they refused to hand over the same. Thereafter immediately the petitioners contacted their advocate and he said the writ petition was not listed till date and thereafter only at the insistence of the petitioners, their advocate verified with the information centre and found out that the writ petition was disposed off on 1.12.2010 with the previous counsel's name. The order copy was applied on 8.2.2012 and the same was delivered on 15.02.2012. Meanwhile the petitioners met L.Chandrakumar, Advocate, who's name was printed in the order copy and enquired him how the writ petition was disposed off by printing his name as petitioner's counsel, particularly when the bundle was with K.Selvaraj, for which, he replied that since the writ was disposed more than one year back, he could not recollect the same. The petitioners are having 546 fruit bearing coconut



trees, a pucca building (Farm house) a Well and two 10 HP motor pumpset in the land. In fact for the benefit of Adi Dravidar the State Government already constructed a Samathuvapuram near their colony and they also allotted land to Adi Dravidar families in Azagapuram village. Therefore from 1992 to 2012 (20 years) lot of development took place in Salem Town and Salem Municipality is extended up to Neikarapatti village, where the petitioners land is situated and more over the petitioners have no other land except this land.

4.2 The main reason for filing this review application is due to the death of previous counsel M. Kandaswamy, effective argument was not put forward on behalf of the applicants and since the case bundle was handed over to the petitioners by the deceased advocate, the petitioners engaged new advocate and handed over the case bundle and due to mistake, new counsel's name was not printed in the list and hence he has not appeared,



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for which, the petitioners should not be denied an opportunity to put forward their case which has very valuable points on merits. Now the value of the property is also increased manifold. The petitioners are sentimentally attached to the land and coconut trees.

4.3 The earlier writ petition in W.P.No.3930 of 1994 was withdrawn by the petitioners on 26.7.1996 based on the recommendation letter dated 11.4.1996 by the first respondent to District Collector, Salem, to withdraw the land acquisition proceedings and also advised the petitioners to withdraw the writ petition pending before this Court in order to send withdrawal notification for dropping the land acquisition. The petitioners genuinely believed the letter dated 11.4.1996 and due to the advise of the Collector, Salem, they requested their counsel to withdraw the writ petition, even though the petitioners were enjoying the stay of the land acquisition proceedings. The writ petitioners are in actual possession



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of their land till date and from the beginning they are cultivating coconut trees, nearly 546 coconut trees standing in their land and the petitioners received a notice only under 10 of Act 31/78 but not under the Central Act dated 14.5.1999. The petitioners were sending representations to various officials and waiting for reply. The writ petitioners were wrongly advised to file declaratory suit to declare the notice under Form 10 as null and void. The writ petitioners also filed I.A.No.58/2001 in L.A.O.P. which was closed by the Sub Court on 18.1.2002. Hence writ petition in W.P.No.14857/2002 was filed on 22.04.2002 before this court and the same was disposed off on 1.12.2002.

5 The second respondent viz. the Special Tahsildar, Adi-Dravidar and Tribal Welfare Department, Salem-1, filed counter stating that the lands in S.No.32/2 extent 2.89.5 Hectares (i.e.7.15 acres) and 33/3A1 0.11.5 Hectares (0.41 acres) and 33/4A 0.05.5 (0.14) acres were acquired in Award No.5/93-94 dated 10.03.1994 by the Special Tahsildar



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(ADW) Salem for the provision of house site to poor houses less

Arunthathiyar community. Since the writ petitioner refused to receive the compensation amount, the amount was deposited in Sub-Court, Salem, aggrieved by the same, the review applicants filed Writ Petition in W.P.No.3930/1994 and obtained interim orders. In the meanwhile, the review applicants approached the Government stating that they are small farmers and requested to withdraw the land acquisition. The Director of Adi Dravidar and Tribal Welfare, Chennai, in Lr.No.D1/69169/94 dated 27.04.1995 reported to Government to drop the matter and go for private negotiation and in view of the same, the Government in their Lr.No.47378/LA/TV dated 11.04.1996 decided to drop the land acquisition proceedings and instructed to withdraw the W.P.No.3930/1994 and the petitioner also withdrew the writ petition. But again the Government in Lr.No.4119/LA 2/98-7 dated 01.03.1999 has stated that withdrawal of acquisition is against the policy for providing HSD to Adi Dravidars and so



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directed to take further action to proceed with the land acquisition. Further one N.C.V.Rathinasamy filed a W.P.No.4610/98 before this Court to complete the land acquisition proceedings in Neikkarapatti Village and this Court by order dated 31.03.1998 directed him to approach the Collector, Salem for allotment of house sites.

5.1 Based on the Lr.No.4119/LA dated 01.03.1999, Form 10 notice was issued to the review applicants to hand over the land, aggrieved by the same, they filed O.S.No.417/1999 before the District Munsif Court, Salem, for injunction and the case was dismissed on 28.01.2002 and further L.A.OP.No.15/1994 filed by the petitioner was also dismissed on 18.01.2002.

5.2 Once again the petitioner filed W.P.No.14857/2002 before this Court and even though interim injunction was granted, but the writ petition was dismissed on 02.09.2003, against which, present review



application is filed.

5.3 The petitioner made many attempts to cancel the land acquisition proceedings by filing various writ petitions and due to failure of all the attempts, finally filed this review application and got order of status quo, due to which, issue of HSD patta to poor Adi-dravidars of Neikkarapatti Village in Salem Taluk is pending for the past 22 years from the date of passing of Award on 10.03.1994. Aggrieved by the same, the beneficiaries are agitating before the Government and Ministers for earlier issue of pattas.

5.4 Now, the review applicants filed W.P.No.7529/2016 for relief under Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement (Social Impact Assessment and Consent) Rules 2014. But, the same came into force recently and the same will not be applicable to the Award passed in the year 1994.



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6 Learned Senior Counsel for the review applicants would submit that the writ petition has been filed challenging the notifications in G.O.3(D)No.732 dated 12.10.1992 and G.O.(D) No.642 dated 16.09.1993 and to quash the same in respect of the property in S.No.32/2 measuring 3.11.5 hectares situated in Neikarapatti, Salem, and direct the respondents to consider the case of the applicants in the light of the letter of the first respondent in Lr.No.47378/La IV/94 dated 11.04.1996 and consequently denotify the said land of the applicants from the land acquisition proceedings vide the aforesaid two Government orders. Even though the learned Single Judge, by order dated 01.12.2008 dismissed the writ petition stating that the earlier writ petition filed by the review applicants seeking the same prayer was dismissed as withdrawn without any liberty and the writ petitioner was granted liberty to approach the Civil Court to withdraw the amount.



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6.1 Learned Senior Counsel would further submit that the writ petition was filed through their counsel M.Kandasamy in the year 2002 and unfortunately he died and therefore the review applicants engaged a new counsel one K.Selvaraj, who has filed change of vakalat, but entries were not made and the vakalat was not put up in the case bundle and hence when the case was listed, name of the new counsel was not printed in the cause list, however, earlier counsel name was printed and therefore the new counsel did not appear before the Writ Court, when the matter was listed. The writ petition was disposed of on merits without effective representation of the writ petitioners and hence certain important facts and legal submissions were not informed to this Court.

6.2 The earlier counsel in the writ petition was no more at the time when the writ petition was listed for disposal and hence bundle was handed over to another counsel and since his name was not printed in the cause list, he could not put forth his contentions.



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6.3 The earlier writ petition in W.P.No.3930 of 1994 was withdrawn by the petitioners on 26.7.1996 based on the recommendation letter dated 11.4.1996 by the first respondent to District Collector, Salem, to withdrew the land acquisition proceedings and the review applicants were also advised to withdraw the writ petition pending before the this Court in order to send withdrawal notification for dropping the land acquisition. The petitioners has genuinely believed the letter dated 11.4.1996 and due to the advise of the District Collector, Salem, they requested their counsel to withdraw the writ petition even though, the writ petitioners were enjoying the stay of the land acquisition proceedings. The review applicants are in actual possession of their land till date and from the beginning they are cultivating coconut trees, nearly 546 coconut trees standing in their land and the petitioners received a notice under 10 of Act 31/78 but not under the Central Act dated 14.5.1999. But, subsequently, after withdrawal of the writ petition by the writ petitioners, the



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Government did not proceed with the withdrawal of the notification and instead they proceeded further to acquire the lands. There is no particular procedure for withdrawal is prescribed and hence the authorities cannot continue the acquisition proceedings, when they already decided to withdraw the land acquisition proceedings. In support of his contentions, the learned Senior Counsel has relied on the decision of the *Hon'ble Supreme Court reported in 2010 (2) CTC 336*.

6.4 Therefore opportunity was not given to the review applicants to put forth their contentions and since the writ petition was disposed of on merits, the present review has been filed.

7 Learned Additional Advocate General assisted by the learned Additional Government Pleader for the respondents would submit that even though the review applicants have stated that they filed change of vakalat, but the same was not reflected in the cause list, however, order was passed on merits. Further even though the learned Senior Counsel for



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the review applicants contended that the earlier writ petition was withdrawn by the review applicants only based on the recommendation by the first respondent to the District Collector, Salem, whereas there is no material to prove the same and the earlier acquisition proceeding was not withdrawn and was not notified. The land was very much necessary for allotting free house site for landless poor and therefore the acquisition was initiated. The review applicants refused to receive the compensation and hence the same was deposited in the Civil Court. Aggrieved by the same, the review applicants filed writ petition in W.P.No.3930/1994 and obtained interim orders. Meanwhile the review applicants approached the Government stating that they are small farmers and requested to withdraw the land acquisition proceedings.

7.1 The Director of Adi Dravidar and Tribal Welfare, Chennai, in his letter dated 27.04.1995 reported to Government to drop the matter and



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go for private negotiation and in view of the same, the Government in their letter dated 11.04.1996 decided to drop the land acquisition proceedings and instructed to withdraw the writ petition and the review applicants also withdrew the writ petition. However, again the Government in its letter dated 01.03.1999 has stated that withdrawal of acquisition is against the policy for providing house sites to Adi Dravidars and hence directed to proceed with the land acquisition.

7.2 Further one N.C.V.Rathinasamy filed a writ petition in W.P.No.4610/1998 before this Court to complete the land acquisition proceedings, in which, this Court by order dated 31.03.1998 directed the him to approach the District Collector for allotment of house sites. Thereafter based on the letter dated 01.03.1999, Form 10 notice was issued to the review applicants to hand over the land, against which, they filed suit in O.S.No.417 of 1999 before the District Munisf Court, Salem



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and the same was dismissed on 28.01.2002 and the L.A.OP.No.15/1994 filed by the petitioner also dismissed on 18.01.2002.

7.3 Once again the review applicants filed W.P.No.14857/2002 before this Court and even though, interim injunction was granted, subsequently the writ petition was dismissed on 01.12.2010, against which, present review is filed, which is liable to be dismissed.

8 Heard the learned Senior Counsel for the review applicants and the learned Additional Advocate General for the respondents and perused the materials available on record.

9 The Government issued notification under Section 4(1) of the Land Acquisition Act, 1894 and land was acquired for allotment of house site to landless poor, since the review applicants refused to receive



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the amount, the same was deposited before the Civil Court and aggrieved with the same, the review applicants filed writ petition. However, the review applicants have expressed their difficulties and also approached the Government stating that they are small farmers and requested to withdraw the land acquisition and the same was considered by the Director of Adi Dravidar and Tribal Welfare, who sent letter to Government on 27.04.1995 for dropping of the land acquisition proceeding and the Government also originally decided to drop the land acquisition proceedings and instructed the review applicants to withdraw the writ petition and the review applicants also withdrew the same.

10 Thereafter, the Government once again taken different view since one of the member of Adi Dravida community filed writ petition for allotment of house site. Hence the Government has decided to proceed with the land acquisition proceedings.



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11 The petitioner has not stated that there is any violation of procedures or irregularity and others. They only stated that they are small farmers and requested to withdraw the acquisition proceedings earmarked for allotting house site to landless poor. Considering facts and circumstances of the case, the Government has proceeded further and acquired the land and Award passed and compensation also deposited before the Civil Court. But, since there was interim order and due to intervention of this Court, possession could not be taken. However, Award was passed and the amount was deposited before the Civil Court, since the petitioner has refused to receive the same .

12 On a perusal of the order, it reveal that the order passed by this Court on merits and already acquisition notification was effected and representation of the writ petitioner was also considered. Even though, the



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Government decided to drop the acquisition proceeding, but the same was not notified and considering the need of the land, they proceeded with the land acquisition and Award was also passed and amount was deposited. Therefore under these circumstances there is no reason to review the order of the Writ Court. The decision referred to by the learned Senior Counsel for the review applicants is not applicable to the facts of the present case.

13 In view of the above, the Review Application is dismissed. Consequently connected miscellaneous petition is closed. However, the review applicants are at liberty to workout their remedy to withdraw the Award amount.

05.06.2024

Index : Yes / No

Speaking Order : Yes / No

Neutral Case Citation : Yes/No



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To

1. The Secretary,
Adi Dravidar and Tribal Welfare Department,
Fort St. George, Chennai - 600 009.
2. The Special Tahsildar,
Adi Dravidar and Tribal Welfare Department,
Salem - 9.
3. The Commissioner of Land Administration,
Chepauk, Chennai - 600 005.



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P.VELMURUGAN. J.

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