



W.P.No.18529 of 2018

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.02.2024

PRONOUNCED ON : 04.06.2024

CORAM:

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

W.P.No.18529 of 2018 and
W.M.P.Nos.32736 of 2022

M.Elumalai (died)

2. E.Sakunthala
3. E.Ramadass
4. A.Indira
5. E.Venkatesh
6. Parameshwari
7. R.Anjali Devi

...Petitioners

(P2 to P7 substituted as LR's of the deceased sole petitioner vide order dt.15.09.2023 made in W.M.P.No.3287/2023 in the above WP)

VS.

1. The District Collector,
Villupuram District,
Villupuram.
2. The Special Tahsildar,
(Adi Dravidar and Tribal Welfare Department)
Tindivanam, Villupuram District.



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3. The Tahsildar,
Tindivanam, Villupuram District.
4. The Block Development Officer (Village Panchayats)
Special Officer, Thenpasiyar Panchayat,
Panchayat Union Office,
Marakkanam, Tindivanam,
Villupuram District.

5. A.Manikandan ...Respondents
(R5 impleaded vide order dated 28.02.2023 made in
W.M.P.No.729/2023 in the above WP)

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus to call for the records of the first respondent in Na.Ka.No.A4/6615/2018 dated 29.03.2018 and quash the same and consequently direct the respondents to earmark and identify the lands in S.No.30/14 for burial ground by releasing the lands acquired from the petitioner in S.No.33/1B in Avanampattu Village.

For Petitioners : Mr.V.Vijay Shankar

For Respondents : Mr.A.Selvendran,
Special Government Pleader for RR1 to 4

Mr.R.Singara Velan, Senior Advocate for
Mr.V.Vasanth for R5



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ORDER

The writ petition has been filed to quash the proceedings of the first respondent in Na.Ka.No.A4/6615/2018 dated 29.03.2018 and consequently direct the respondents to earmark and identify the lands in S.No.30/14 for burial ground by releasing the lands acquired from the petitioner in S.No.33/1B in Avanampattu Village.

2 The case of the writ petitioners is that the deceased petitioner is a permanent resident of Avanampattu Village, Tindivanam Taluk, and a farmer owing lands in Survey No.33/1 along with two brothers and after death of the two brothers the lands in Survey No.33/1 later classified as 33/1B were allotted to the deceased petitioner. The second respondent vide notification (A)/3019/94, dated 24.01.1998, issued notice under the Tamilnadu Acquisition for Harijan Welfare Schemes Act, 1978 (in short the 'Act') to acquire 0.04.5 hectares in Survey No.33/1B for pathway to the burial ground of Adi Dravidas in Avanampattu Village. After receipt of the said notice, the deceased petitioner approached the second respondent and

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made objections for the proposed acquisition, but after the said notice nothing was heard from the respondents or any other revenue authorities.

Thereafter suddenly in the month of March 2017, without any notice some revenue officials came and inspected the subject land and when the deceased petitioner made enquiries, he was informed that the land has been acquired and they were going to take possession. Therefore, the deceased petitioner earlier approached this Court by way of writ petition in W.P.No.7624 of 2017 and this Court by order dated 14.02.2018 disposed of the same by directing the petitioner to approach the District Collector with a fresh representation with all material particulars, since there was subsequent change of events.

2.1 As directed by this Court, the deceased petitioner approached the first respondent and given representation dated 01.03.2018 emanating the correspondence and requested that the alternate land in S.No.30/14 be identified for providing burial ground for Adi Dravidas and also stated that the lands in S.No.33/1B were his only source of livelihood and he was carrying out agricultural activities. Thereafter the deceased petitioner was



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called for enquiry on 27.03.2018 and he appeared and explained as to how the alternate lands were best suited for providing burial ground and several villagers also came and they insisted the need to have a larger area for burial ground. While so, the respondents 2 to 4 in the last week of March 2018 attempted to interfere with the petitioners' possession and enjoyment of the lands and therefore the deceased petitioner once again approached this Court by way of writ petition in W.P.No.8476/2018, in which, this Court granted interim injunction restraining the respondents.

2.2 The petitioner was in the found hope that the first respondent would consider and accede to the genuine request of the villagers, but, to the shock, by the impugned proceedings dated 29.03.2018, rejected the petitioner's request giving incorrect, extraneous and irrelevant reasons. Hence the present writ petition.

3 The second respondent filed counter stating that based on the request of the Avanampattu Village Adi Dravidar people for having a path way to the existing burial ground in S.No.33/9, land acquisition proceedings were initiated for acquiring 0.04.5 hectares land in S.No.33/1 having total

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extent of 1.36.5 Hectares and notification No.A/3019/94, dated 24.01.1998 was issued. On receipt of the above notice, the deceased petitioner approached the second respondent and submitted objections stating that the lands are the only source of income for his family. Further the deceased petitioner suggested that the Mandhaiveli Poramboke in S.No.30/14 can be considered for the re-classification of burial ground path way. But, for the said re-classification, there was objection from the villagers. When the petitioner approached this Court in W.P.No.7624/2017, this Court directed the deceased writ petitioner to submit fresh representation and first respondent was directed to consider the fresh representation to be submitted by the petitioner. The first respondent also after due enquiry and considering the claim of the petitioner, passed an order on 29.03.2018 holding that the objections made by the deceased petitioner is unsustainable since only a meager portion of land of the petitioner is going to be acquired.

3.1 Thereafter again the petitioner made objections and the second respondent after due consideration has decided to acquire 0.04.5 Hectares as S.No.31/1 on the extreme eastern side out of the total extent as a strip of



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land having 6 meters breadth and 75.5m length so that the remaining land can be enjoyed without any hindrance. Further if the lands in Mandhaiveli in S.No.30/14 is re-classified as a burial ground, alternative similar land has to be re-allotted to the village, which is not possible in this case, since no suitable land could be identified. Therefore an Award was passed on 25.02.1999 under Award No.17/1998-1999 to an extent of 0.04.5 Hectares by having a sub division of 33/1B and the compensation amount was deposited in the Sub Court, Tindivanam, since the petitioner is not ready to receive the same by producing necessary documents.

3.2 After the Award, physical possession has also been taken by following the legal formalities and metal road was also laid in the acquired land in the year 2017 itself and now the acquired land was vested with the Government free from all encumbrances. The deceased petitioner again filed another writ petition in W.P.No.8476 of 2018 and since Award was passed and metal road was also laid, he himself withdrawn the petition. Now the petitioner has filed the present writ petition seeking to quash the acquisition proceedings, which is repetition of the claim made in the earlier petition and



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the same may be dismissed. During pendency of this writ petition, the sole writ petitioner died and hence his legal heirs were impleaded as petitioners 2 to 7 in the above writ petition.

4 Learned counsel for the writ petitioners would submit that the deceased petitioner is the owner of the lands in S.N.33/1, which was subsequently reclassified as 33/1B. The respondent on 24.01.1998 issued notice for acquisition of lands under Tamilnadu Acquisition for Harijan Welfare Scheme, to the extent of 0.04.5 Hectares (roughly 10 cents) in S.No.33/1B. The deceased petitioner also appeared before the respondent and made his objections and there was no response and no order was passed and also communicated to the petitioner. The petitioners were in possession of the property and since the respondents tried to interfere with the possession and enjoyment of the subject property by the petitioners, the deceased petitioner filed writ petition in W.P.No.7624/2017. This Court, by order dated 14.02.2018, considering the subsequent events, directed the deceased writ petitioner to submit a fresh representations and the first respondent was directed to consider the same.



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4.1 Based on the directions of this Court, the deceased petitioner also made his representation on 01.03.2018. But, however, the District Collector rejected the petitioner's request. The impugned order of the District Collector contradicts by previous proceedings of the Tahsildar and Revenue Divisional Officers, wherein the revenue officials admitted that the existing burial ground is small and the land in S.No.30/14 which was classified as Mandaiveli Poramboke would be suitable for the purpose of providing pathway to burial ground and having taken such stand in all previous proceedings and letters, it is not open to the respondent now to contradict themselves just to defeat the legitimate request of the petitioner.

4.2 The reason stated in the impugned order for rejecting the genuine request made by the petitioner are all flimsy and illogical. In the impugned order it is stated that there are no alternate lands available for reclassification in lieu putting to use the lands in S.No.30/14. The Tahsildar, after carrying out local inspection and enquiry, has identified alternate lands in S.No.7/2 of an extent of 0.32.5 hectares in the neighbouring village of Thenpasiyur and hence it is factually incorrect to state that there are no



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alternative lands available. Similarly other reasons in the impugned order that the public have objected to the reclassification of the lands in S.No.7/2 Arasu Tharisu is again flimsy since the lands that have been identified in S.No.7/2 is alternative for Arasu Punjai Tharisu. Hence the general public has no right to make such objections.

4.3 The other reason in the impugned order is that there will be no pathway for the burial ground in S.No.30/14 is entirely false and misconceived. Even now, to reach the burial ground, the pathway presently used lies in S.No.31/6 which is Poramboke. Infact, a major portion of the pathway, to an extent of 420 Meters falls in S.No.31/6 before it enters the land of the petitioner, when the pathway is only to an extent of 60 Meters. Even as of now, the major portion of the pathway to reach the existing burial ground lies in S.No.31/6. Therefore the reasons stated in the impugned order is not acceptable.

4.4 The respondents invented the reason for rejecting the petitioner's request. Even yet another ground sated in the impugned order,



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the public are objecting to the shifting of the burial ground. But, the fact is that even villagers also accompanied with the deceased petitioner when he went to meet the first respondent and all of them unanimously stated that the existing burial ground was too small and that the lands identified in S.No.30/14 Mandavali Poramboke would be ideally suited for the same. There was no objections from the general public and the respondent have stated the reason only for rejecting the claim of the petitioner. The petitioners have no other lands and they are depending upon the said land for cultivation and therefore the impugned orders is liable to be set aside.

5 Learned Special Government Pleader for the respondents 1 to 4 would submit that the petitioner has not challenged the notification and when he filed the earlier writ petition, this Court held that the petitioner has not challenged the acquisition notification, however, considering the subsequent events and alternative lands, the petitioner was directed to make fresh representation before the first respondent and the first respondent was directed to consider the same and pass orders. The representation of the petitioner was considered and the same was rejected.



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WEB COPY 5.1 In order to reach the existing burial ground in S.No.33/9, Adidravida community people of Avanampattu Village have made request for having pathway to existing burial ground. The land acquisition proceedings was initiated for acquiring 0.04.5 lands in S.No.33/1 having total extent of 1.36.5 hectares and notification was published on 24.01.998. The deceased petitioner also approached the first respondent and submitted his objections stating that the land in S.No.33/1 is the only source of income for his family and he also suggested that the Mandhaiveli Poramboke in S.No.30/14 can be considered for re-classification of burial ground pathway, for which there was objections from the villagers.

5.2 The petitioner approached this Court in W.P.No.7624/2017 and this Court directed the first respondent to consider the fresh representation of the petitioner. The first respondent also after due enquiry considered the claim of the petitioner and passed orders on 29.03.2008 holding that the objections made by the petitioner is unsustainable.



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5.3 It is only a small portion of the petitioner's lands is going to be acquired. After due consideration the second respondent, has decided to acquire 0.04.5 Hectares in S.No.31/1 on the extreme eastern side out of the total extent as a strip of land having 6 meters breadth and 75.5m length so that the remaining land can be enjoyed by the petitioner without any hindrance. Therefore a small portion of the land was only acquired for pathway to reach the burial ground of the Adidravida community.

5.4 If at all as suggested by the petitioner, the Mandaveli Poramboke is re-classified as burial ground, alternative similar lands has to be re-allotted to the village., which is not possible since no suitable land could be identified. Further even as per the suggestion of petitioner the alternative land was in the other village, where the the public were objecting for the re-classification. Therefore the request of the petitioner could not be accepted.

5.5 Therefore Award was passed on 25.02.1999 under Award No.17/1998-1999 to an extent of 0.04.5 hectares, which was sub divided as



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S.No.33/1B and compensation amount was also deposited in the Sub Court, Tindivanam, since the petitioner was not ready to receive the same by producing necessary documents. Therefore the impugned order passed by the first respondent is only well considered and reasoned.

5.6 Adi dravida community people of Avanampattu Village had no pathway to reach the existing burial ground and hence very small portion of the petitioners' land mentioned above was acquired only under due process of law. Therefore the objection of the petitioner that the subject land in S.No.33/1 is the only source of income for his family is not acceptable. The lands to an total extent 1.36.5 Hectares, in S.No.33/1 belongs to the petitioner, out of which, only 0.04.5 alone acquired under due process of law and re-classified as 33/1B as pathway to the burial ground after conducting due enquiry. The first respondent also considered the petitioner's request and the entire facts and rejected the petitioner's claim and acquisition proceedings was completed and possession was taken, Award was also passed and the Award amount also deposited.



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5.7 In fact after completing all the formalities, metal road was laid even in the year 2017 itself. Now the acquired land was vested with the Government and absolutely free from all the encumbrances. Therefore the petitioner is not entitled to the relief sought for in the writ petition.

6 Learned Senior Counsel for the fifth respondent would submit that even though the Government allotted the land for burial ground for Adi Dravida community in S.No.30/14 Mandaiveli Poramboke there was no pathway to reach the burial ground. On a long demand and request, the Government initiated acquisition proceedings for acquiring the land which belongs to the petitioner. The petitioner made objections and earlier filed Writ Petition challenging the notification, which was disposed of with a direction to the petitioner to give fresh representation and the respondent was directed to consider the same. The respondent after considering the representation of the petitioner and the entire facts, has passed the order. The land in S.No.33/1, was acquired under due process of law and took possession of the land and formed pathway therefore except this no other pathway is available to reach the burial ground for the Adi Dravida



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community people.

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7 Heard the learned counsel on either side and perused the materials available on record.

8 Admittedly the burial ground for Adi Dravida community people is situated in S.No.33/9 in the Avanampattu Village, Tindivanam Taluk. Since there was no pathway to reach the burial ground, based on the request made by the Adi Dravida Community people of the said Village, the Government initiated acquisition proceedings through official respondents 1 to 4 to acquire lands to the extent of 0.04.5 hectares in S.No.33/1 having total extent of 1.36.5 Hectares and notification was issued in A/3019/94, dated 24.01.1998. The deceased petitioner appeared for enquiry and submitted his objections and when the land was about take, the deceased writ petitioner filed writ petition in W.P.No.7624 of 2017 and this Court, directed the petitioner to submit fresh representation and the first respondent was directed to consider the same. Based on the above order of this Court, the deceased petitioner submitted his representation and showed alternative land in S.No.30/14, which was classified as Mandaiveli

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Poramboke and the petitioner also raised objection that the lands in S.No.33/1 is the only source of livelihood and he was doing agricultural activities.

9 The land in S.No.30/14 showed by deceased petitioner is an objectionable Mandhaiveli Poramboke and if this land is re-classified as a burial ground, alternative similar land has to be allotted by the respondents to the Village. Therefore the suggestion of the deceased writ petitioner could not be accepted.

10 Further the fact is that the lands in S.No.33/1 having total extent of 1.36.5 Hectares and notification was issued to acquire only 0.04.5 Hectares, which is only a meager portion of the lands. Therefore the first respondent, considering the above facts rejected the objections of the petitioner, by giving well founded reasons.

11 Therefore only meager portion of the land belong to the petitioner in S.No.33/1 alone was acquired and after completing acquisition proceeding, possession was taken and Award was also passed under due



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process of law and since the petitioner has not accepted to receive the Award, by producing necessary documents, the award amount was deposited before the Sub Court, Tindivanam.

12 A metal road was also formed and classified as pathway to the burial ground even in the year 2017 itself. Therefore considering the facts and circumstances of the case and since the land was acquired under due process of law and the petitioner could not show any malafide intention of the first respondent and the petitioner also not proved instead of having the alternative way, the petitioner land was acquired with ulterior motive, this Court does not find any reason to interfere with the order of the first respondent and there is no ground to grant the relief sought for by the petitioners.



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WEB COPY 13 For the foregoing observations and reasons, the writ petition stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

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Index: Yes/No
Neutral citation : Yes/No
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To

1. The District Collector,
Villupuram District, Villupuram.
2. The Special Tahsildar,
(Adi Dravidar and Tribal Welfare Department)
Tindivanam, Villupuram District.
3. The Tahsildar, Tindivanam, Villupuram District.
4. The Block Development Officer (Village Panchayats)
Special Officer, Thenpasiyar Panchayat,
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Villupuram District.

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