



W.A.No.956 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2024

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.956 of 2024

K.Nanjappa (died)

N.Subramani

.. Appellant

Vs.

1. The State of Tamil Nadu
Rep. by the District Collector
Dharmapuri District, Dharmapuri.

2. The Special Tahsildar (ADW)
Krishnagiri, Krishnagiri District.

3. Venkatagiriyamma

4. Thimmakka

5. Venkatamma

6. Renuka

7. Ammaiya

8. Narasamma

.. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 17.09.2014 in W.P.No.21104 of 2004.



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For the Appellant : Mr.P.Mani

For the Respondents : Mr.A.Edwin Prabakar
State Government Pleader
for R1 & R2

Mr.T.Elumalai
for R3 to R8

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

Heard Mr.P.Mani, learned counsel for the appellant, Mr.A.Edwin Prabakar, learned State Government Pleader for respondents 1 and 2 and Mr.T.Elumalai, learned counsel for respondents 3 to 8.

2. The land of the appellant has been acquired under the award dated 23.03.2001. The appellant challenged the same by filing a writ petition bearing W.P.No.21104 of 2001. The basis of the challenge is that the Collector, under Section 4 (3)(a) and/or (b) of the Tamil Nadu Acquisition of land for Harijan Welfare Schemes Act, 1978 [for brevity, "the Act of 1978"] has not passed any order, arriving at a subjective satisfaction of the necessity to acquire the land.



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3. The learned counsel for the appellant submits that the appellant received notice under Section 4(2) of the Act of 1978. He raised objections. Decision was not taken as contemplated under Section 4(3)(a) and/or (b) of the Act of 1978, as such, the acquisition proceedings are null and void. The award deserves to be set aside.

4. The learned counsel, to buttress his submissions, relied upon the judgment of the learned Single Judge of this Court in the case of *Rangasamy and Ors. vs. District Collector, Perambalur District and Ors.*¹ and the judgment of another learned Single Judge in the case of *K.Ramalingam vs. The Collector of Cuddalore District and Ors.*². According to the learned counsel for the appellant, the said provision is mandatory and noncompliance of the said provision would render acquisition of the land *non est*.

¹ (2010) 2 MLJ 1071

² W.P.No.3356 of 2003 dated 10.01.2017



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5. The learned Single Judge has negated the contention of the appellant. It has been observed that show-cause notice under Section 4(2) of the Act of 1978 was issued to the appellant. The appellant raised objections to the same and he appeared for the enquiry on 09.11.2000. Enquiry was conducted and thereafter, the notification under Section 4(1) of the Act of 1978 has been issued.

6. It would appear that even notice was issued to the appellant on 2.03.2001. The same was received by the appellant, however, he did not remain present and consequently the award was passed on 23.03.2001. The writ petition challenging the said award was only filed on 16.07.2004. It would appear that the notice, before the award was passed, was served upon the appellant and the appellant did not appear while passing the award and allowed the award to be passed on 23.03.2001. He did not challenge the said award for a period of three years and eventually only challenged the same on 16.07.2004.



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7. The land was acquired for allotment to the landless, poor persons from the Adi Dravidar Community and the same is also allotted to them.

8. In the case of *Rangasamy* (supra), the court was considering the case, wherein the learned Single Judge accepted that no enquiry was conducted under Section 4(2) of the Act.

9. In the present case, enquiry was conducted and the report of the same was submitted by the Adi Dravidar Welfare Officer to the Collector and after that, notification under Section 4(1) of the Act of 1978 was issued and published. Subsequently, enquiry was also conducted, wherein notice was issued to the appellant on 02.03.2001 before passing the award. However, the appellant, for the reasons best known to him, chose not to appear and allowed the award to be passed on 23.03.2001. The appellant also cannot claim ignorance to the award being passed because he received notice before passing of the award. All these aspects are properly considered by the court. The delay in challenging the award is also



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not irrelevant. The same also is a factor to be considered.

10. In view of all the aforesaid facts, we do not find any merits in the present appeal. The present writ appeal, as such, stands disposed of. There shall be no order as to costs.

(S.V.G., CJ.)

(D.B.C., J.)

20.03.2024

Index : Yes/No

Neutral Citation : Yes/No

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WEB COPY To

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