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W.A.No.3986 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.A.No.3986 of 2019
and
C.M.P.No.24931 of 2019

1.The District Collector,
Vellore Distict,
Vellore.

2.Special Tahsildar (ADW)
Gudiyattam.

... Appellants

Vs.

Ramamoorthy

... Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 06.09.2006 made in W.P.No.4231 of 1999.

For Appellants : Mr.A.Selvendran
Special Government Pleader

For Respondent : No Appearance



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J U D G M E N T

[Judgment was delivered by **S.M.SUBRAMANIAM, J.**]

The writ order dated 06.09.2006 in W.P.No.4231 of 1999 is under challenge in the present writ appeal.

2. The District Collector, preferred the present writ appeal mainly on the ground that the facts established before the Writ Court and stated in the counter affidavit have not been considered by the learned Single Judge and based on the incorrect facts, the writ petition was allowed.

3. It is not in dispute that the land belonged to the respondent was sought to be acquired and acquisition proceedings are initiated under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978. 4(1) Notification in Vellore District Gazette was published on 15.03.1996. The Form I Rule 3(1) and 4(2) of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 was issued before that on 11.12.1995.

4. The learned Special Government Pleader appearing on behalf of the



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appellants would draw the attention of this Court with reference to the fact regarding service of Form III Notice under Rule 5(1) of the Land Acquisition Act. The counter affidavit filed in the writ proceedings before the Writ Court states that after publication of 4(1) Notification in the District Gazette on 15.03.1996, the Land Acquisition Officer after getting the valuation approval by the Collector issued award notice in Form III (Rule 5(1)) of the Land Acquisition Act in Office reference No.Rc.A.1972/95 dated 19.03.1997 for an enquiry posted on 27.03.1997. Though the notice was sent to the land owners, the land owners refused to receive the notice and it was served by affixture. The land owners did not appear for the enquiry and the award was passed in the Office Award No.19/97-98 dated 27.03.1997 after observing the required formalities.

5. The counter affidavit filed by the appellants before the Writ Court reveals that Form III notice was sent to the land owners and they refused to receive the notice. Thereafter, it was served by affixture, which is in consonance with the procedures contemplated under the Rules. The land owners did not appear for the enquiry and an award was passed subsequently on 27.03.1997.



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6. The learned Single Judge allowed the writ petition mainly on the ground that the Form III Notice of Rule 5 was not served on the land owners. The Writ Court has made such observations merely based on the statement of the respondent / writ petitioner and therefore, we are of the considered opinion that the service of notice through affixture made by the appellants is in accordance with rules, which was not considered by the Writ Court.

7. In view of the facts and circumstance, the Writ Appeal deserves to be considered. Accordingly, the writ order dated 06.09.2006 passed in W.P.No.4231 of 1999 is set aside and the Writ Appeal stands allowed. Consequently, the connected Miscellaneous Petition is closed. However, there shall be no order as to costs.

[S.M.S., J.] [C.K., J.]
05.06.2024

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Index : Yes
Speaking order / Non-speaking order
Neutral Citation : Yes



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