



W.A.(MD).No.876 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED:29.10.2024

CORAM :

**THE HON'BLE MRS. JUSTICE P.VELMURUGAN
AND
THE HONOURABLE MR.JUSTICE K.K. RAMAKRISHNAN**

W.A.(MD).No.876 of 2019

and

C.M.P.(MD).No.8910 and 7748 of 2019

1.The Tahsildar
Manamadurai Taluk,
Manamadurai,
Sivagangai District.

2.The District Collector,
Sivagangai District,
Sivagangai.

... Appellants

Vs.

M.Duraisamy (Died)
2.Bommiyammal
3.Dhanalakshmi
4.Kottaian
5.Balasubramaniam
6.Thirumalai Arumugam
7.Srinivasan

... Respondents

***(Respondents 2 to 7 are brought on record as Lrs of the
deceased sole respondent vide Court order dated 16.10.2024
made in C.M.P.(MD).No.13305, 13306 and 13308 of 2024)***



W.A.(MD).No.876 of 2019

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 16.04.2019, passed in W.P.(MD).No.5183 of 2019.

For Appellants : Mr.R.Baskaran
Additional Advocate General-VI,
assisted by
Mr.M.Saragan
Additional Government Pleader
For Respondents : Mr.V.Raghavachari,
Senior Counsel
for Mr.K.R.Laxman (for R2 to R7)

JUDGMENT

[Order of the Court was made by **Mr.K.K.RAMAKRISHNAN, J.**]

The Government have preferred this intra Court appeal under Section 15 of the Letters patent Act, challenging the writ Court order passed in W.P.(MD).No.5183 of 2019, dated 16.04.2019.

2.The original respondent namely, M.Duraisami, had filed the writ petition before this Court in W.P.No.37730 of 2002, challenging the acquisition proceedings initiated in the year 1996 in Gazette No.78, dated 26.09.1996, so far as the petitioner's land is concerned situated in S.No.



W.A.(MD).No.876 of 2019

2A, at Manamadurai Village to the extent of 4.72 acres. The said Duraisami had taken the stand that he had not received the notice under Section 4(2) of the Special Act and hence, he sought to quash the notification under Section 4(1) of the Act. This Court quashed the 4(1) notification so far as the petitioner's land is concerned with liberty to pass fresh notification and passed the following order in Paragraph No. 6:-

6.In view of all the above, the writ petition is allowed, the impugned notification under Section 4(1) of the Act in respect of 4.72 acres of the land belonging to the petitioner alone is set aside and the matter is remanded to the first respondent District Collector, who shall furnish a copy of the report of the second respondent to the petitioner, afford him an opportunity to submit his further explanation, hold appropriate enquiry by giving an opportunity to the petitioner and then the District Collector shall pass an order under Section 4(3)(b) of the Act and then proceed further, if the land is still required for any such Harijan Welfare Scheme. Consequently, connected miscellaneous Petition is closed. No costs.



W.A.(MD).No.876 of 2019

3. Thereafter, the said Duraisami sent a representation, dated 20.11.2014 to the appellants to mutate the revenue records in his name.

The second respondent had issued the enquiry notice, dated 13.06.2016, as per the direction of this Court in W.P.No.37730 of 2002 directing him to appear on 30.06.2016 at 3.00 p.m. Therefore, the said Duraisami had filed the writ petition in W.P.(MD).No.7715 of 2016 before this Court seeking the following prayer.

Writ of Mandamus directing the respondents to delete the entry of Adhi Dravidar Welfare Department and to include the petitioner's name in the revenue records of the property bearing Survey No.2A (Part) Manamadurai Village, Sivagangai District, measuring 4.12. acres in consideration of the representation by the petitioner dated 20.11.2014.

4. This Court by order dated 21.04.2016 issued direction to consider the petitioner's representation. Pending consideration, he also filed W.P.(MD).No.11798 of 2016 with the following prayer:

Writ of direction in the nature of a writ declaring the Tamil Nadu Act 1 of 2015 and the consequent proceedings in Na.Ka.No.W1/18601/1998



W.A.(MD).No.876 of 2019

dated 13.06.2016 on the file of teh fourth respondent as illegal.

5.In the said writ petition, the Division Bench of this Court passed the following order:-

It is represented that the cause in this case is also connected with the one raised in W.P.(MD).No. 24182 to 24188 of 2014 and W.P.(MD).No.21369 of 2015 and a Division Bench of this Court in W.P. (MD).No.2883 of 2016 has directed the proceedings to go on, but no final order will be passed and staus quo as to possession of the land shall be maintained.

Hence,even in this case let us pass a similar order.

The proceedings may go on, but no final order will be passed and staus quo as to possession of the land shall be maintained.

6.Thereafter, the said Duraisami filed W.P.No.5183 of 2019, with the following prayer:-

Writ of mandamus or direction in the nature of a writ directing the Respondents to delet the entry of



W.A.(MD).No.876 of 2019

Adhi Dravidar Welfare Department and to include the petitioner's name in the revenue records of the property bearing S.No.2A (part) Manamadurai Village, Sivagangai District measuring 4.72 acres and issue patta in the name of the petitioner.

7.The writ Court, by impugned order dated 16.04.2019 passed the following order:

2.The petition mentioned lands belong to the writ petitioner. They were sought to be acquired under Section 4(2) of Tamil Nadu Act 31 of 1978. The acquisition proceedings were challenged by the writ petitioner in W.P.(MD).No.37730 of 2002. The said writ petition was allowed on 13.08.2010. The acquisition proceedings were quashed. The said order has become final. However, in the revenue records, the name of Adhi Dravidar Welfare Department has been entered. This has cast a cloud on the petitioner's title. The writ petitioner therefore, wants to delete the name of Adhi Dravidar Welfare Department and include his name in the revenue records.

3.I am of the view that this request of the petitioner cannot be objected. This is because the acquisition proceedings taken in respect of the



W.A.(MD).No.876 of 2019

petition mentioned lands were already quashed.

Therefore, the writ petition stands allowed. No costs.

Challenging the same, this intra Court appeal was filed by the Government. During pendency of this writ appeal, the said Duraisamy is died and hence, his legal heirs are impleaded. On their behalf, Thiru.V.Raghavachari, learned Senior counsel has made detailed submission.

8.Mr.R.Baskaran, learned Additional Advocate General-VI, assisted by Mr.M.Sarangan, Additional Government Pleader, would submit that the finding of the writ Court that quashing the acquisition proceedings against the Duraisami in W.P.No.37730 of 2002 is not correct. This Court directed to conduct fresh enquiry after serving the notice and the same was pending. The said Duraisami also received the notice. Thereafter, he filed the writ petition before the Division bench challenging the Act itself. The Division Bench of this Court failed to accept the case of the Duraisami and dismissed the same and directed to proceed the enquiry. In the said circumstances, the order of the writ Court to delete the name of the “Adhi Dravidar Department” entry in the revenue record and incorporate the name of the Duraisami is not legally



W.A.(MD).No.876 of 2019

WEB COPY

9.Per contra, Mr.V.Raghavachari, learned Senior Counsel on behalf of Duraisamy's legal heirs would submit that after the order passed on 13.08.2010 no further proceedings was initiated and no enquiry was conducted under Section 4(3)(b) of the Act and hence, the petitioner made a request to the appellant to change the mutation in his name and this Court correctly allowed the writ petition and he had been in possession of the property till his death. After his death, the legal heirs are entitled to possession. In the said circumstances, there is no reason to interfere with the order of the writ Court.

10.The Additional Advocate General made the additional submission that his brother filed the writ petition before this Court in respect of the same notification in the year 1998 in W.P.No.2754 of 1998 and the same was dismissed. In the said proceedings, the similar plea of non service of the notice was taken and this Court after perusing the record, had found that notice was properly served upon him. Apart from that, the award was passed and the award amount was deposited as early as on 15.01.1997 itself. Thereafter, the entry in the mutation was made



W.A.(MD).No.876 of 2019

and the land was transferred in the name of the Adhi Dravidar Welfare Department. Hence, the writ petition's prayer to transfer of patta itself is not maintainable.

11.Mr.V.Raghavachari, learned senior counsel further submitted that once the 4(1) notification was set aside, the passing of award has no legs to stand.

12.This Court considered the rival submission made by the learned counsel appearing on either side and perused the materials available on record.

13.It is undisputed that the State of Government brought the Tamil Nadu Acquisition of land for Harijan Welfare Scheme Act to acquire land for the welfare of the Harijans. There is a slight deviation from the Original Land Acquisition Act, 1894. As per the Act, a notification was issued by the Government to acquire the land of 9.7 acres in Manamadurai Village, Sivagangai District to provide house sites to the Adi Dravidars. The said notification was issued under Section 4(2) of the Act on 12.11.1995. The deceased/respondent Duraisamy and his brother



W.A.(MD).No.876 of 2019

Ramachandran's land situated in S.No.2B also was included in the said notification. Thereafter, the Government Gazattee was published on 26.09.1996 including the land of Duraisami in S.No.2A, at Manamadurai. The brother of the Duraisami namely Ramachandran's son had filed the writ petition in W.P.No.2754 of 1998 and the same was dismissed by this Court without accepting his contention that no notice was served under Section 4(1) of the Act. In the mean time, the appellants had deposited the award amount and also taken the possession. In the said circumstances, the duraisami filed W.P.No.37730 of 2002 to quash the Gazatte notification dated 26.09.1996 and the learned single judge of this Court had set aside the 4(1) notification giving liberty to continue the proceeding after serving notice to Duraisami and passed a suitable order. The said order was passed on 06.09.2010. Thereafter, on 20.11.2014, Duraisami sent representation to the appellants to change the mutation. The appellants/department issued the notice of enquiry as per the order of the writ Court on 13.06.2016. Without participating in the said enquiry as per the direction of this Court in W.P.No.37730 of 2002 Duriasamy filed another W.P.No.7715 of 2016 to delete the entry of adi dravidar welfare department and to incorporate his name in the revenue record. This Court also passed usual direction to



W.A.(MD).No.876 of 2019

consider his representation. In the mean time, he also filed writ Petition in W.P.No.11798 of 2016 challenging the Tamil Nadu Act 1 of 15, saying it is repugant to the provision of the 107 and 108 of the Central new land acquisition Act, 30 of 2013 and consequently, to declare the notice issued by the appellant on 13.06.2016 as illegal. The Division Bench of this Court did not incline to accept the case of the said Duraisami and passed the order that *the proceedings may go on, but no final order will be passed and staus quo as to possession of the land shall be maintained*. Without disclosing the said fact, he filed another writ petition before this Court W.P.(MD).NO.5183 of 2019 seeking the same prayer of to delete the name of the Adi Dravider Welfare Department and to include his name in S.No.2A, Manamadurai, measuring to the extent of 4.72 acres and to issue the patta in his name. The Writ Court has held that the proceedings under the Special Act, namely Tamil Nadu Harijans Act is quashed and there is no impediment to incorporate the name of the said Duraisamy. The said finding of the writ Court is not correct.

14. Thereafter, notice was issued on 13.06.2016 requiring him to participate in the enquiry as per the direction of this Court in W.P.No. 11798 of 2016. The same was challenged by the Duraisami in W.P.



W.A.(MD).No.876 of 2019

(MD).No.11798 of 2016 and the Division Bench of this Court passed the order that *the proceedings may go on, but no final order will be passed and staus quo as to possession of the land shall be maintained*. The same was not considered by the writ Court in passing the present impugned order dated 16.04.2019 to incorporate his name in the mutation record. Apart from that, the compensation was deposited as early as in the year 1997 itself. Duraisamy had filed writ petition one after another without disclosing the material fact before the Court and finally obtained the order suppressing the order of the Division Bench of this Court and got order in W.P.No.5183 of 2019 to change his name in the mutation record, deleting the name of the Adi Dravidar Welfare Department, which had been made in the year 1997. The said acquisition is for the benefit of the Adi Dravidar. Usually writ petition after the award and taking the possession can not be entertained. The Hon'ble Supreme Court has also repeatedly held that the writ petition challenging the 4(1) notification after passing the award and taking the possession can not be entertained. Duraisamy had filed W.P.No37730 of 2002 long after the date of issuance of the notification dated 20.06.1996. This Court quashed the notification but, directed to proceed further in accordance with law after serving the notice. The Division Bench of this Court also passed the order to



W.A.(MD).No.876 of 2019

continue the said proceedings. Pursuance of the notice issued on 13.06.2016 is continuation of the earlier acquisition proceedings. In the said circumstance, the finding of the writ Court that the proceedings already quashed, in the considered opinion of this Court is not correct and also against the record. Further, the writ Court is also failed to consider the specific circumstance of the appellant that the possession had already been taken and the award amount has also been deposited in the year 1997 itself. In the said circumstances, this Court inclines to accept the writ appeal and sets aside the order passed by the Writ Court.

15. In view of the pendency of the enquiry from 2016 onwards, this Court directs the appellants to complete the same within a period of six weeks from the date of receipt of a copy of this order in accordance with law, otherwise principal secretary, home department state of tamil nadu is hereby directed to take necessary action against the appellants and report before this court on 22.12.2024.



W.A.(MD).No.876 of 2019

16. with the above said directions, this writ appeal is allowed.

There shall be no order as to costs. Consequently, the connected miscellaneous petition is also closed.

List on **22.12.2024**, “for reporting compliance”.

[P.V.J.] & [K.K.R.K.J.]

29.10.2024

NCC :Yes/No
Index :Yes/No
Internet :Yes/No
vsg

To:

The Special Government Pleader,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



W.A.(MD).No.876 of 2019

P.VELMURUGAN. J.,
and
K.K. RAMAKRISHNAN. J.,

vsg

W.A.(MD).No.876 of 2019

Dated :29.10.2024