



W.P.(MD) No.20464 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.20464 of 2016

1.Suriyaputhiran

2.Muniappan @ Mariappan

3.Mariappan

4.Eswaran @ Mariappan

.. Petitioners

(The petitioners through their power of attorney K.Muniappan)

Vs.

1.The Secretary to Government,
Information & Tourism Department,
St.George Fort,
Chennai.

2.The District Collector,
Tuticorin District,
Tuticorin.

3.The Revenue Divisional Officer,
Land Acquisition Officer,
Kovilpatti,
Tuticorin District.



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4.The Tahsildar,
Ettayapuram,
Ettayapuram Taluk,
Tuticorin District.

5.The Block Development Officer,
Kovilpatti,
Tuticorin District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Declaration, declaring records of the 1st respondent herein in his proceedings in G.O.Ms.No.346, Information Tourism, (Tamil) (Mahakavi Bharathiyar Centenary Celebration) Culture, 30th April 1928 and declare the same as null and void and lapsed with respect of the land in survey No.358/1A having an extent of 22 cents at Ettayapuram, Kovilpatti Taluk, Tuticorin District.

For Petitioner : Mr.D.Nallathambi

For Respondents : Mr.D.S.Neduncheliyan
Government Advocate

ORDER

The writ petitioners are represented by a power agent. The power agent has passed away. The learned counsel who had entered appearance would submit that their attempts to contact the petitioners / principals have not fructified and they have no instructions.



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2. On 28.08.2024, this Court had directed the respondents to produce the files relating to the acquisition proceedings which is claimed to have commenced in the year 1998. This was on account of the submission made by the learned counsel for the petitioner on the earlier occasion i.e., on 12.08.2024 that no notice has been issued to the petitioners. The original files have now been produced. Before discussing the contents of the files, a brief resume of the petitioners' case would help us to understand the matter in a correct perspective.

3. The petitioners would submit that the land measuring an extent of 48 cents in Survey No.358/1 of Ettayapuram originally belonged to one Thangavel Nadar who is the father of the petitioners. He had been in possession and enjoyment of the same and by a registered Will, dated 16.11.1967, he had bequeathed the property on the petitioners. After his demise, the Will came into effect and the petitioners became the absolute owners of the property in question. The petitioners are residing at Malaysia and had appointed a power agent to deal with the properties.



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4. At the time of execution of the power on 27.06.2007, the land in Survey No.358/1 had been subdivided as 358/1A measuring 22 cents and 358/1B measuring 26 cents. The lands in Survey No.358/1B was sold to one M.Raja under a registered sale deed, dated 01.08.2007 and the lands comprised in Survey No.358/1A was in possession and management of the petitioners. While so, a road was laid leading to the office of the 4th respondent in a portion of the land in Survey No.358/1A and in an other portion, a community hall was constructed. This encroachment came to knowledge of the petitioners only in the year 2010. They had therefore filed a suit in O.S.No.265 of 2010 on the file of the District Munsif Court, Kovilpatti against the respondents 2,4 and 5 for a declaration and recovery of possession. The 4th respondent herein, namely the Tahsildar had filed a written statement inter alia contending that the lands were acquired through the land acquisition proceedings. The respondents 2 and 5 have adopted the written statement filed by the 4th respondent. The 3rd respondent has undertaken the land acquisition proceedings. However, no details as to when the petitioner had been served and their



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appearance in the enquiry have not been provided. It is only from the written statement that the petitioner had come to know about the acquisition proceedings and they had also come to learn that a fraud has been played by the officers in relation to the acquisition of lands. Further, they would submit that if the compensation amount is not paid within 5 years as contemplated under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013, the entire acquisition proceedings would lapse. They would further submit that they have not received the compensation to date. Therefore, the land acquisition matter had come to an end.

5. They had further claimed that the Section 4(1) notification issued in G.O.Ms.No.346, Information Tourism (Tamil Mahakavi Bharathiyar Centenary Celebration) Culture, dated 30.04.1982 is null and void in respect of 22 cents of land of the petitioners comprised in Survey No.358/1A, Ettaiyapuram village, Kovilpatti, Tuticorin.



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6. The 2nd respondent has filed a counter affidavit inter alia denying the allegations contain in the affidavit particularly the allegation that the fraudulent acquisition has taken place. On the contrary, the 2nd respondent would submit that the land acquisition proposal was drafted on 13.11.1981 and the same was published on 30.04.1982. Thereafter, a notice under Section 5(A) of the Land Acquisition Act was served on the petitioners' close relative, namely Kaliyappan on 27.09.1982. Subsequently, objections and enquiries were made and on 13.10.1982, the petitioners' relative Kaliyappan appeared before the authorities and admitted that the original owners were residing at Malaysia and informing the authorities that he was in absolute possession of the property and neither he nor the petitioners have any objection to the lands being acquired. The revenue records have been updated and the 22 cents of land in Survey No.358/1A is classified as pathway and has been taken over for the construction of new Tahsildar office. The construction work has also commenced in the year 2005 and from 18.03.2007, the new office of the Tahsildar become functional. Apart from the pathway for the Tahsildar office, a community hall for the general public has also



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been constructed and is now on site. All these facts have been suppressed in the affidavit filed in support of the writ petition. The allegations that the petitioners are in the dark about these acquisition proceedings is far from the truth since the power agent is a local man and he is quite aware of all these proceedings and construction of the buildings. The respondents would further contend that the suit filed by the petitioners in O.S.No.265 of 2010 was dismissed on the ground of delay. Therefore, the respondents sought to dismiss the said writ petition.

7. As stated supra, this Court had called for the original files since there was no clarity about the proceedings having been initiated. Today, the original files have been produced and the same would include the Section 4(1) notification and the various lands including the land in question having been acquired. In the 5(A) enquiry, the petitioners' relative Kaliyappan who is none else than the petitioners' paternal uncle's son has stated that neither he nor the petitioners would have any objection to the lands being acquired. The power agent has been given the power on 27.06.2007. Till then, the property must have been



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managed by the petitioners and even prior to the issue of execution of power of attorney, the proceedings have been initiated for acquiring the lands. On 13.10.1982, a no objection has been given by the petitioners' relative who was in possession of the property and who claim that he is in possession with the full knowledge of the petitioners. Basis on which, the writ has been filed stands disproved and the request for enhancement at this stage cannot be entertained. The original letter, dated 13.10.1982 has also been scrutinized by this Court. The lands have been given to the Government by the said Kaliyappan for a sum of Rs.25,000/-. Therefore, the question of setting aside the acquisition proceedings will not arise.

8. In view of the above, this Writ Petition stands dismissed. No costs.

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

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P.T.ASHA, J.

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