



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-09-2025

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**THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

**WA No. 1987 of 2022
and
CMP No. 14526 of 2022**

1.The District Collector
Villupuram District.

2.The Special Tahsildar
Adi Dravidar Welfare,
Ulundurpet.

Appellant(s)

Vs

Habibunisa

Respondent(s)

PRAYER

Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 24.03.2021 made in WP No.23005 of 2012 and allow this Writ Appeal.



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For Appellant(s): Mr.P.Kumaresan, AAG
Assisted by
Mr.Mohamed Sadhiq, GA

For Respondent(s): Mrs.V.Srimathi

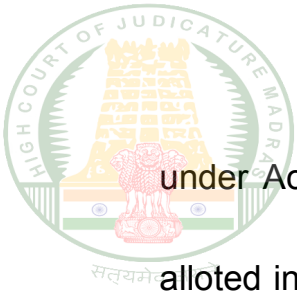
J U D G M E N T

(Judgment was delivered by S.M.Subramaniam J.)

Under assail is the writ order dated 24.03.2021 passed in W.P.No.23005 of 2012. The District Collector, Villupuram District and the Special Tahsildar, Adi Dravidar Welfare, Ulundurpet have preferred present Intra-Court Appeal.

2. The respondent filed writ proceedings challenging the notification issued under Section 4(1) of the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act, 1978, (Act 31 of 1978) [hereinafter referred to as “Act 31 of 1978”]. Since the Writ Court allowed the writ petition, the State preferred the present appeal.

3. Mr.P.Kumaresan, learned Additional Advocate General appearing on behalf of the appellants would contend that the procedures as contemplated



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under Act 31 of 1978 were duly followed. That apart, acquired lands were allotted in favour of 151 landless poor Adi Dravida individuals, who have been issued pattas and they are in possession of the lands.

4. Pertinently, the legal heirs of the original owner in the present case participated in the award proceedings and raised objections. That being so, the ground raised that the notification issued against a deceased person is unsustainable at this length of time. Furthermore, the writ petition itself has been instituted after a lapse of 10 years from the date of issuance of 4(1) Notification.

5. Mrs.V.Srimathi, learned counsel for the respondent would oppose by stating that notification issued in the name of a deceased person cannot be sustained. She emphasized that the Land Acquisition Officer was aware of the death of original owner even prior to initiation of acquisition proceedings. Therefore, the order impugned passed by the Writ Court is in consonance with the established principle and the present appeal is to be rejected.



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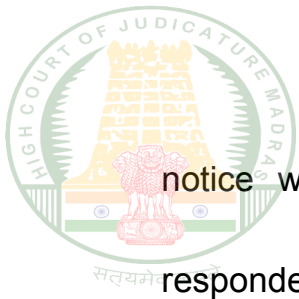
6. Relying on the impugned 4(1) Notification, the learned counsel would urge this Court that since the initial notice was found to be defective, all subsequent proceedings are to be declared as null and void.

7. This Court has considered the rival submissions made between the parties to the *lis* on hand.

8. The primary issue in the present appeal is whether the procedures as contemplated under the Act 31 of 1978 were properly followed or not?

9. The facts, based on the documents produced would reveal that 4(2) notice was issued by the District Collector, Villupuram in proceedings dated 03.07.2001. Form-1 under Rule 3(1) was issued on 07.08.2001. The said Form-I indicates the name of the respondent, Habibunisa in S.No.10 of Form-I notice with reference to Survey No.54/12 and 54/13A.

10. The Assistant Collector, Villupuram issued 4(1) Notification under Act 31 of 1978 in proceedings dated 19.12.2001. Subsequently, Form-III



notice was issued on 01.03.2002 and in the said notice name of the respondent, Habibunisa as well as the name of the legal heirs are found in

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S.No.3. Award No.1 of 2001-2002 in proceedings dated 20.03.2002, would indicate that the legal heirs of the deceased owners participated and raised objections, which were rejected.

11. Perusal of the award reveals that the legal heirs of the owners have raised their objection for acquisition and that was rejected by the authority and subsequently the compensation determined by the authority deposited in the Treasury Account.

12. It would be relevant to consider the judgment of the Division Bench of this Court in the case of **G.S.Gopalakrishnan and Others vs. Government of Tamil Nadu**¹, wherein, the question as to whether a notification issued under Section 4(1) of the Land Acquisition Act, 1894, in the name of a deceased person is a nullity or not has been considered. The relevant paragraphs are extracted hereunder:

¹ MANU/TN/9634/2006



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“7. On a consideration of the above facts, the learned Judge rejected the contention of the appellants and held that the mere fact that Section 4(1) notification was issued in the name of a dead person would not vitiate the entire proceedings inasmuch as the authorities responsible for issuing the notification might not be aware of the death of the owner. However, the learned Judge held that the failure to provide an opportunity to participate in the enquiry under Section 5-A vitiated the proceedings in so far as the writ petitioner Nos.1 and 5 were concerned, since the writ petitioner No.1 purchased the property prior to Section 4(1) notification and the writ petitioner No.5 purchased the property after Section 4(1) notification but before Section 6 declaration. No relief was granted to the writ petitioner Nos.2, 3 and 4 on the ground that they purchased the property after the award enquiry itself was completed. Hence the present appeal by writ petitioner Nos.2, 3 and 4.

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10. A Division Bench of this Court considered, in the case of SAVITHIRIAMMAL vs. STATE OF TAMIL NADU (2006 (3) MLJ 389), the validity of a notification issued in the name of a dead person and held that “the notification issued in the name of a dead person is a



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nullity and the proceedings cannot be sustained based on the said notification". But in para-3 of the said judgment, the learned Judges recorded a finding that the factum of death of the original owner was brought to the notice of the authorities even during the enquiry under Section 5-A and that despite the same, the authorities did not carry out necessary changes in the Section 6 declaration also. In view of such a finding, the Bench quashed the entire proceedings and that too at the instance of the legal heir of the deceased owner. But in the case on hand, the property has changed several hands and the appellants purchased the plots much after the award enquiry was over. It is not the case of the appellants that anyone ever brought to the notice of the acquiring authorities, the fact that the original owner was dead. Under such circumstances it is difficult to comprehend as to how the authorities can be expected to know that the original owner was dead. We are entirely in agreement with the views expressed by the learned Judges in the aforesaid cases, especially in the light of their finding in those cases that the acquiring authorities had knowledge of the death of the owner of the lands.

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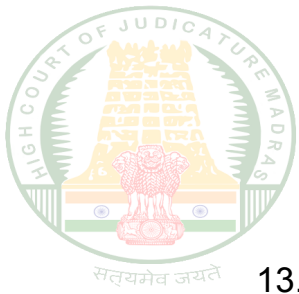


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14.

15. *Thus, it could be seen from the law laid down by the Apex Court that a distinction was always maintained between judicial/quasi-judicial proceedings and other proceedings. In so far as the scheme of the Land Acquisition Act, 1894 is concerned, it envisages various types of notices at various stages. Section 4(1) notification is required to be gazetted followed by publication in two dailies having circulation in the locality and a local publication. The opportunity provided under Section 5-A is actually for 'persons interested' and not necessarily the land owners. This enquiry is followed by a Section 6 declaration and the Act thus provides innumerable opportunities to "persons interested" in objecting to the acquisition. The Land Acquisition Act does not limit its reach to "owners of land", but enables any person interested in the land to have a say. Moreover, the liability of the acquiring authorities to serve a notice of enquiry is also restricted only to persons whose names find a place in the revenue records. When the Act does not even make it obligatory for the acquiring authorities to conduct a roving enquiry to find out the actual owners, beyond the names reflected in the revenue records, it cannot be expected of the acquiring authorities to find out if the patta holder is alive or dead."*



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13. The Division Bench judgment has been confirmed by the Hon'ble Supreme Court of India in Special Leave Petition in S.L.P.(C) CC.No.002199 of 2007, dated 09.03.2007.

14. Beyond the facts narrated above, the 4(1) Notification impugned in the writ petition was issued on 18.12.2001 and the writ petition has been filed after a lapse of about 10 years in the year 2012. When there is an enormous delay in challenging the 4(1) Notification, the writ petition is liable to be rejected on the grounds of delay and latches.

15. Significantly, the land acquisition proceedings initiated in the year 2001 concluded with an award dated 20.03.2002. Thereafter, the acquired lands vest with the Government and were subsequently allotted to landless poor Adi Dravidar individuals 151 beneficiaries received pattas and they are presently in occupation of the lands acquired. Since the acquisition proceedings came to an end in the year 2002 and the writ petition itself has been instituted in the year 2012, the petition is liable to be rejected on the



grounds of delay and latches.

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16. For all these reasons, this Court is of the considered view that the writ order impugned deserves to be interfered with. Consequently, the writ order dated 24.03.2021 passed in W.P.No.23005 of 2012, is set aside and the Writ Appeal stands allowed. The connected Miscellaneous Petition is closed. There shall be no order as to costs.

(S.M.SUBRAMANIAM J.)(MOHAMMED SHAFFIQ J.)

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Index:Yes/No

Speaking/Non-speaking order

Neutral Citation:Yes/No

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