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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.09.2025

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THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)Nos.13311 of 2021 and 15477 of 2022

and

W.M.P(MD)Nos.10299 of 2021 & 11120 of 2022

W.P.(MD)No.13311 of 2021:

1. Arulmuthu

2. Arulanthu

...Petitioners

Vs

1. The District Collector, Sivagangai District.

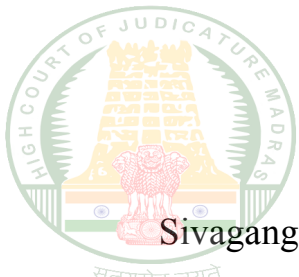
2. The District Revenue Officer, Sivagangai District.

3. The Thasildhar, Kalaiyarkovil Taluk, Sivagangai District.

4. The Adi Diravida Welfare Officer, Sivagangai District.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating with the order of the 3rd respondent made in Na.Ka.A4/1087/2021 dated 05.07.2021 and quash the same as illegal and in consequence to direct him to issue the patta in the name of the petitioners, relating with the land ad measuring 1 Acre 24 Cents comprised, in S.No. 195/6A, in Vannikudi Group, in Kalayarkovil Taluk,



Sivaganga District, in the light of the Judgment and Decree in A.S.No.12/2004 on the file of Subordinate Judge, Sivaganga, after rectifying the classification of the revenue records as “Adi Dravida Colony Paramboke”.

For Petitioners : M/s.R.Suriyanarayanan
For Respondents : Mr.M.Ajmal Khan
Additional Advocate General
assisted by
Mr.M.Muthumanikkam
Government Advocate

W.P.(MD)No.15477 of 2022

1. Muthulakshmi
2. Revathi
3. Muneeshwari
4. Priya
5. Mookkayi
6. Thaineesh
7. Rani
8. Annamayil
9. Rakkammal
10. Punitha
11. Gandhimathi
12. Revathi
13. Kannathal
14. Gnanasoundari
15. Jakkulin
16. Selvi
17. Sampooranam



18. Prithisha

19. Mari

20. Selvi

21. Indra

22. Maruthayee @ Maruthammal

23. Vanitha

24. Kalaiselvi

25. Arockya Nancy

26. Irulayee

27. Bathish Mery

...Petitioners

Vs

1. The District Collector, Sivagangai District, Sivagangai.

2. The District Adi Dravidar Welfare Officer, Sivagangai District, Sivagangai.

3. The Revenue Divisional Officer, Sivagangai, Sivagangai District.

4. The Special Tahsildar, Adi Dravidar Welfare Department, Sivagangai, Sivagangai District.

5. The Tahsildar, Kalayarkovil Taluk, Sivagangai District.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Respondent to issue free house site patta to the petitioners under the Adi Dravidar Welfare Scheme from the land acquired for the said scheme in Survey No.195/6A of Vannikudi Village Group, Kalayarkovil Taluk, Sivagangai District.



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For Petitioners : M/s.V.Kannan
For Respondents : Mr.M.Ajmal Khan
Additional Advocate General
assisted by
Mr.M.Muthumanikkam
Government Advocate

COMMON ORDER

In W.P.(MD)No.13311 of 2021, the petitioners assail an order dated 05.07.2021 of the jurisdictional Tahsildar and seek a consequential direction for issuance of patta to the petitioners in respect of the lands described in the writ petition. W.P.(MD)No.15477 of 2022 has been filed seeking a direction for issuance of free house site patta to the 27 petitioners therein. Because the outcome of W.P.(MD) No.15477 of 2022 is dependent on the outcome of the earlier petition, such earlier petition is dealt with first.

2.The petitioners in W.P.(MD)No.13311 of 2021 assert that the property described in such petition was purchased by the first and second petitioners, respectively, under two sale deeds dated 03.07.1990. In view of the perceived threat to their possession and enjoyment of such property, the petitioners had filed a civil suit. The said civil suit was dismissed by the District Munsif, Sivagangai. The judgment and decree was carried in appeal in A.S.No.124 of



2003. By relying on the appellate decree in favour of the petitioners, the petitioners had applied for issuance of patta and such request was rejected by the order impugned herein.

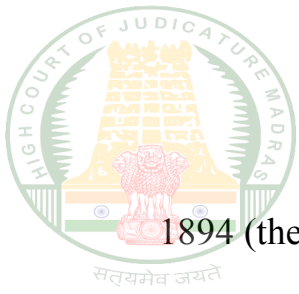
3. The contentions of learned counsel for the petitioner in W.P.(MD)No. 13311 of 2021 may be summarised as under:-

(a) The impugned order was issued merely on the basis that the revenue records classified the lands as Adi Dravidar Poromboke.

(b) The appellate court decree was disregarded while issuing the impugned order.

(c) The land acquisition proceedings relating to these lands are void *ab initio* on account of the acquisition not being made in accordance with the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (Act 31 of 1978).

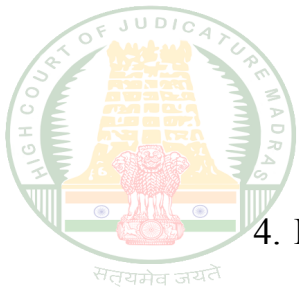
(d) Without prejudice, the acquisition is void *ab initio* because of non-issuance of notice to the petitioners in spite of the petitioners having acquired the lands prior to the notice under Section 4(1) of the Land Acquisition Act,



1894 (the 1894 Act). The significance of notice requirements in land acquisition was highlighted by the Hon'ble Supreme Court in *Kolkata Municipal Corporation and another v. Bimal Kumar Shah and others*, 2024 SCC OnLine SC 968, especially at paragraphs 27-30.

e) Both on account of the petitioners remaining in physical possession and on account of non-deposit of compensation in the petitioners' names, the acquisition proceedings lapsed as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (the 2013 Act). As explained in *Haryana State Industrial and Infrastructural Development Corporation and others v. M/s Janta Oil Company and others*, Civil Appeal Nos. 1147-1149 of 2025, *Indore Development Authority v. Manoharlal and others*, 2020 SCC OnLine SC 316 (*Indore Development Authority*), only applies where there are a large number of beneficiaries.

f) Since the acquisition was void *ab initio* and since such proceedings lapsed, it is not necessary for the petitioners to challenge the acquisition proceedings.



4. Learned Additional Advocate General responded to these contentions.

His contentions may be summarised as under:-

(a) Upon coming to know that the petitioners had purchased the property, the petitioners were put on notice and participated in the award proceedings, as evidenced by the proceedings of the Special Tahsildar dated 10.02.1992.

(b) Without prejudice, it is not necessary to put the petitioners on notice because the revenue records did not reflect the names of the petitioners. In support of this contention, the judgment of the Hon'ble Supreme Court in *Ahuja Industries Limited v. State of Karnataka*, 2003 (5) SCC 365 (*Ahuja Industries*), particularly paragraph Nos.11 to 13, is relied on.

(c) The jurisdiction of the civil court is impliedly excluded in terms of Section 9 of the Code of Civil Procedure, 1908 (the CPC). In support of this proposition, the judgment of the Hon'ble Supreme Court in *H.N.Jagannath and others v. The State of Karnataka* and others, (2018) 11 SCC 104, particularly paragraph Nos.17 and 18, is relied upon. Consequently, the appellate court lacked subject matter jurisdiction. Therefore, the judgment and decree of the appellate court is a nullity and vitiated by the principle of *coram non judice*. The judgment of the Hon'ble Supreme Court in *Sushil Kumar Mehta v. Gobind*



Ram Bohara, 1991 (1) SCC 193 (Sushil Kumar Mehta), particularly paragraph

No.26, is relied upon for this principle.

(d) As per the judgment of the Hon'ble Supreme Court in *Indore Development Authority*, land acquisition proceedings under the 1894 Act would lapse only if physical possession was not taken and the compensation was not deposited in the Treasury. In this case, possession is with the respondents and compensation was deposited in the Treasury.

(e) The acquisition is not vitiated on account of being undertaken pursuant to the 1894 Act because Act 31 of 1978 had been struck down by the Division Bench of this Court by judgment dated 09.09.1981. Such judgment was reversed later by the Hon'ble Supreme Court in *State of T.N. v. Ananthi Ammal and others, 1995 SCC (1) 519 (Ananthi Ammal)*. The acquisition was undertaken in the interregnum by adhering to the procedure prescribed in the 1894 Act.

5. Upon taking stock of the rival contentions, after noticing and recording that the acquisition is under indirect and not direct challenge herein, I deal with the first issue as to whether the land acquisition proceedings were void *ab initio*



on account of being undertaken in accordance with the 1894 Act and not Act 31 of 1978. A Division Bench of this Court had struck down Act 31 of 1978 as unconstitutional by judgment dated 09.09.1981. This judgment was reversed in *Ananthi Ammal* by judgment dated 22.11.1994. In the judgment, the Supreme Court provided, in relevant part, as under regarding proceedings initiated in the interregnum under the 1894 Act to acquire land for Harijan welfare:

“18.We must, however, take into account the fact that the judgment under appeal striking down the said Act was delivered as far back as September 1981, and no stay thereof was obtained from this Court. It is likely, therefore, that in cases where proceedings under the Land Acquisition Act had already been started to acquire lands for Harijan Welfare Schemes, they might have been revived and completed in the interregnum. We, therefore, make it clear that Section 22 shall have no effect in such cases where awards have been made.”

Although the above paragraph deals primarily with cases wherein acquisition proceedings commenced under the 1894 Act prior to the entry into force of Act 31 of 1978, the principle is equally applicable to the present case for the following reasons. In this case, the Section 4(1) notification was issued on 07.03.1991, the Section 6 declaration on 30.09.1991 and the award was issued on 10.02.1992. During this entire period, Act 31 of 1978, including Section 20 thereof which excludes the operation of the 1894 Act except to the extent provided, was not in operation. Hence, I conclude that recourse to the 1894 Act was not excluded during the relevant period and that the acquisition is not



initiated on that account.

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6. The next issue relates to non-issuance of the 4(1) notice and other communications to the petitioners. It is common ground between the parties that the revenue records did not mention the names of the petitioners at the time of land acquisition. Therefore, notice was issued to the pattathar, Vijaya Thevar. After stating that he sold the property to the petitioners in his statement on 14.05.1991, he admits that his name remains in the 10(1) accounts. Thereafter, it appears that the statements of both the petitioners objecting to the acquisition were recorded on 10.02.1992 and there is a discussion thereon in the award proceedings dated 10.02.1992 of the Special Tahsildar. In spite of having participated in the award proceedings, as on date, the acquisition proceedings have not been challenged by the petitioners by resorting to relevant provisions of the 1894 Act or even by way of a writ petition before this Court. The challenge in the present writ petition is limited to the order of the Tahsildar rejecting the request for patta. In these circumstances, I am not inclined to countenance the contention that the acquisition proceedings are void *ab initio* because of non-issuance of notice by way of this collateral attack. This view is supported by the following principles formulated in *Ahuja Industries*:



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“11. Admittedly, the appellant's name is not reflected as owner or occupier of the land in the revenue record. It is also not in dispute that no notice was issued to the appellant under Section 28(3) of the Act. The appellant did not get his name entered in the revenue records in pursuance of the sale in his Tavour, the question of serving of any notice on him under the circumstances did not arise. The respondents have produced RTC extracts for the year 1995-96 as Annexure R-1 and the notice issued to the notified khatedar under Section 28(2) of the Act as Annexure R-2. The persons named therein as owners/occupants of Survey No. 6 have been shown as owners/occupants in the preliminary notification as well. Notices were issued/served on the owners/occupants as per the revenue records or their representatives.

12. This Court in *Winky Dilawari v. Amritsar Improvement Trust* has taken the view that failure to serve personal notices on the persons whose names have not been mutated in the official record-of-rights in pursuance of any sale in their favour does not vitiate the proceedings for acquisition. Similar view was taken in *W.B. Housing Board v. Brijendra Prasad Gupta* wherein this Court observed: (SCC p. 214, para 8)

"It is no part of the duty of the Collector to make a roving inquiry into ownership of the persons. We are of the opinion that the requirements of the law were met when notices were served upon the recorded owners as per the record-of-rights. Again we do not think in a case like the present one, it is for the Collector to make enquiries from the registration office to find out if the land had since been sold by the recorded owners. In Winky Dilawari v. Amritsar Improvement Trust, this a Court observed that the public authorities were not expected to go on making enquiries in the Sub-Registrar's office as to who would be the owner of the property. The Collector in the present case was thus justified in relying on the official record being the record-of-rights as to who were the owners of the land sought to be requisitioned and prudence did not require any further enquiry to be made. We are therefore of the view that notices



were properly served under Section 3(2) of the Act on the owners of the land."

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13. It could be seen from the above order that service of notice on a person shown as owner or occupier in the record-of-rights is sufficient even though the said person had already sold the land prior to the said notification unless it is substantiated otherwise that the authorities concerned had knowledge of the rights or interest of any person other than those found recorded as owner/occupier in the revenue records. It is further held that the Collector is not obliged to make a roving enquiry about the ownership of the land. If the name of the purchaser is not yet entered in the record-of-rights then non-service on such a person does not vitiate the acquisition proceedings. Admittedly, the appellant had not got his name entered in the revenue records as owner or occupant of the said land and therefore he could not complain about non-service of notice on him nor about the failure to grant a hearing to him. Contention that as per provision of the Land Revenue Act there was no obligation on his part to either inform the Revenue Authorities about the sale in his favour or to request them to transfer the katha in his name cannot stand as it has not been brought on record with reference to any pleadings with supporting documents that in fact the appellant had made payment for making the necessary entries in the record-of-rights and the register in his name at the time of registration of the sale deed in his favour. This apart, failure to make entries on the part of the Revenue Authorities by itself would not cast any obligation on the authorities under the Act to make a roving enquiry and try to locate an owner who may have subsequently purchased the land from the previous owner. Failure on the part of the Revenue Authority to make entry in the register of mutation in favour of the subsequent owner would not render the acquisition proceedings bad in law on account of non-issuance of notice inviting objections to the acquisition proceedings or service thereof."



7. The next issue to be examined is whether the acquisition proceedings lapsed by virtue of Section 24(2) of the 2013 Act. This issue is no longer *res integra* and was decided by the Constitution Bench of the Hon'ble Supreme Court in *Indore Development Authority*. The contention of learned counsel for the petitioner that the principles laid down therein only apply to acquisitions wherein lands are acquired from a large number of persons cannot be accepted as regards the conclusions therein on whether the acquisition proceedings lapse.

Paragraph No.226 and 232 of the said judgment are as under:-

“226. Thus, in our opinion, the word “paid” used in Section 24(2) does not include within its meaning the word “deposited”, which has been used in the proviso to Section 24(2). Section 31 of the 1894 Act, deals with the deposit as envisaged in Section 31(2) on being “prevented” from making the payment even if the amount has been deposited in the treasury under the Rules framed under Section 55 or under the Standing Orders, that would carry the interest as envisaged under Section 34, but acquisition would not lapse on such deposit being made in the treasury. In case amount has been tendered and the landowner has refused to receive it, it cannot be said that the liability arising from non-payment of the amount is that of lapse of acquisition. Interest would follow in such a case also due to non-deposit of the amount. Equally, when the landowner does not accept the amount, but seeks a reference for higher compensation, there can be no question of such individual stating that he was not paid the amount (he was determined to be entitled to by the Collector). In such case, the landowner would be entitled to the compensation determined by the Reference Court.

“232. Deposit in treasury in place of deposit in court causes no prejudice to the landowner or any other stakeholder as their interest is adequately safeguarded by the provisions contained



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in Section 34 of the Act of 1894, as it ensures higher rate of interest than any other Government securities. Their money is safe and credited in the earmarked quantified amount and can be made available for disbursement to him/them. There is no prejudice caused and every infraction of law would not vitiate the act.”

8.While the petitioners assert that they are in physical possession, the respondents refute such contention. As regards the deposit of compensation, the petitioners' grievance is that such compensation was not deposited in their names. Learned Additional Advocate General submits that the compensation was deposited in the Treasury and that it is immaterial that such compensation was not deposited in the names of the petitioners. On examining the principles formulated in *Indore Development Authority*, I am inclined to accept the contention of learned Additional Advocate General on this aspect.

9.The next issue that falls for consideration is whether the impugned order is vitiated because the appellate decree was not taken into consideration. On examining the judgment and decree of the trial court, particularly paragraph No.17 thereof, it is noticeable that the trial court took notice of the acquisition proceedings. In that factual context, when the appellate court's judgment and decree is examined, it appears that the appellate court proceeded to reverse the trial court's judgment without examining whether the court had subject matter



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jurisdiction. It is fundamental that the parties may subject themselves to the jurisdiction of a court by consenting thereto in relation to aspects such as pecuniary jurisdiction or territorial jurisdiction. On the contrary, even the consent of parties does not clothe a court lacking subject matter jurisdiction with jurisdiction. The 1894 Act is a complete code which provides the machinery for comprehensive redressal of all grievances relating to land acquisition. In the face of such comprehensive code, as per principles laid down in multiple judgments, including *Sushil Kumar Mehta and Dhulabhai and others v. State of Madhya Pradesh and others*, AIR 1969 SC 78, the jurisdiction of the civil court stands impliedly ousted under Section 9 of the CPC. In these circumstances, I conclude that the Tahsildar did not commit an error warranting interference of this Court in refusing to accept the request of the petitioners for grant of patta in relation to the lands that form the subject of concluded acquisition proceedings. Consequently, the relief prayed for in W.P.(MD)No. 13341 of 2021 is declined and the said writ petition is disposed of without any order as to costs by leaving it open to the petitioners to claim compensation in accordance with law.

10. As a corollary, the relief prayed for by the petitioners in W.P.(MD)No. 15477 of 2022 is liable to be considered on merits. The respondents are directed

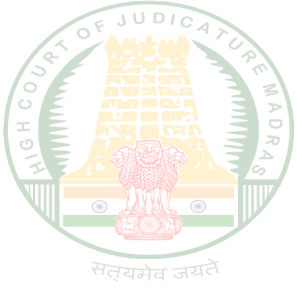


to verify the entitlement of the 27 petitioners in that writ petition and consider and dispose of their request for allotment of house sites patta on merits within three months from the date of receipt of a copy of this order. W.P.(MD) No. 15477 of 2022 is disposed of on these terms. No costs. Consequently, connected Writ Miscellaneous Petitions are also closed.

10.09.2025

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NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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- To
1. The District Collector, Sivagangai District.
 2. The District Revenue Officer, Sivagangai District.
 3. The Thasildhar, Kalaiyarkovil Taluk, Sivagangai District.
 4. The Adi Diravida Welfare Officer, Sivagangai District.
 5. The District Adi Dravidar Welfare Officer, Sivagangai District, Sivagangai.
 3. The Revenue Divisional Officer, Sivagangai, Sivagangai District.
 4. The Special Tahsildar, Adi Dravidar Welfare Department, Sivagangai, Sivagangai District.



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SENTHILKUMAR RAMAMOORTHY, J.

RJR

W.P.(MD)Nos.13311 of 2021 and 15477 of 2022

10.09.2025

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