
(1976) 08 MAD CK 0002
In the Madras High Court
Case No : Writ Petition No. 9 of 1974

Bhama Ramamoorthy

APPELLANT

Vs

The State of Tamil Nadu and Another

RESPONDENT

Date of Decision : 04-08-1976

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 5

Citation : AIR 1977 Mad 272 : (1977) 90 LW 320 : (1977) 1 MLJ 323

Hon'ble Judges : Mohan, J

Bench : Single Bench

Judgement

Mohan, J.

1. The matter arises under the Land Acquisition Act. The admitted facts are as follows--On 25-10-1962, the petitioner purchased the property

forming the subject matter of the writ petition and patta was changed in her name on 15-6-1963. On 25-12-1963, a S. 4(1) notification was

issued proposing to acquire the land for the Korattur neighbourhood Housing scheme. On 9-3-1964 Sec. 5-A enquiry took place. On 18-1-

1969, S. 6 declaration was issued. The award enquiry was conducted on 25-3-1969 and the award was passed on 14-12-1973. The petitioner

was issued a notice on 22-12-1973, stating that possession would be taken and therefore she was required to be present to deliver possession. It

is under these circumstances that the present writ petition has been filed to quash the land acquisition proceedings.

2. The only contention that is urged before me is that the entire proceedings are illegal, since at no point of time, the petitioner was served with any

notice excepting the notice dated 22-12-1973. Therefore these proceedings have taken place behind the back of the petitioner. Such a procedure

constitutes a violation of the Act as well as the principles of natural justice.

3. It is admitted on behalf of the respondent that the petitioner was not served with any notice and as such she could not put forth her objections

during the enquiry under S. 5-A.

4. Para 5 of the counter affidavit which constitutes interesting reading concerning the service of notice states--

The notices under S. 5-A of the Act were served by affixture on the spot as the residential address of the land-owners was not known. Smt Bama

Ramamoorthy has purchased the land under reference from Smt Agilandammal. After knowing the petitioner's address, necessary notices have

been served by post and also served in person. Therefore, the allegation made by the petitioner that no intimation was given to her is no correct.

5. First of all I am entirely unable to understand what is meant by the counter affidavit. From the above narration of facts, it will be clear that after

the petitioner's purchase, there was a change in the revenue registry on 15-6-1963, i.e. , even before the issue of S. 4(1) notification. Certainly it

was the duty of the officer-in-charge of land acquisition proceedings to verify the registry and incorporate the name of the petitioner under S. 4(1)

notification. This was not done. Adding insult to injury even for the enquiry under S. 5-A, she was not served with any notice. S. 3 declaration also

did not contain her name Nor again was she served with notice under Ss. 9(3) and 10 of the Land Acquisition Act. The Government having slept

over the matter suddenly wakes up and serves a notice on 22-12-73, requiring the petitioner to be present for delivering possession. What

prevented the Government from ascertaining the correct state of affairs with reference to the change of the name in the revenue registry, is not at all

made clear in the counter affidavit. In matters like this, where the lands are sought to be acquired, exercising the power of eminent domain, the

minimum that could be expected of the Government would be to follow the procedure strictly. But this case shows how supine and careless is the

attitude of the authorities concerned in exercising the extraordinary power of eminent domain. Therefore I have little hesitation in quashing the S. 6

declaration as well as the Section 4(1) notification. I am quashing this S. 4(1) notification because a contention is sought to be raised on behalf of

the Government that S. 4 of the Act does not contemplate individual service of

notice. That may be so. Section 4(1) notification as published in the gazette had not shown the name of the petitioner which it ought to have, in view of the change of the revenue registry. On 15-6-1963, the petitioner could have come to know about the proposed acquisition. But she had no chance, since it did not contain her name. Accordingly the writ petition will stand allowed with costs. Counsel fee Rs. 200.

6. Petition allowed.