

(2001) 08 MAD CK 0087

In the Madras High Court

Case No : Writ Petition No. 3383 of 1996

G. Ramakrishna Naidu (deceased) and 2 others

APPELLANT

Vs

The District Collector, North Arcot Ambedkar District, Vellore,
North Arcot District and another

RESPONDENT

Date of Decision : 09-08-2001

Acts Referred:

Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 — Section 4(1),
4(3)(b)

Citation : (2001) WritLR 860

Hon'ble Judges : K.P. Sivasubramaniam, J

Bench : Single Bench

**Advocate : Mr. K.A. Ravindran, R. Sathish Kumar and S. Vijayakumar, for the
Appellant; Ms. V. Velumani, Additional Government Pleader, for the Respondent**

Final Decision : Allowed

Judgement

1. In this writ petition, the petitioners seek for a writ of certiorari, to quash the acquisition proceedings of the first respondent in his Notification

dated 9.2.1996 published in the North Arcot Ambedkar District Gazettee for acquiring the lands bearing S.No.133 for an extent of 1.16 acres

situated in Renugapuram Hamlet of 29 Rangasamudram Village and for the lands bearing S.No.134 for an extent of 1.00 acres situated in

Jangalapalli Hamlet of No.29, Rangasamudram Village, Gudtyatham Taluk, North Arcot District issued u/s 4(1) of the Tamil Nadu Act 31 of

1978.

2. According to the petitioners, the lands in question belonged to the father of the 1st petitioner. The first petitioner and his sister alone are entitled

to pet the lands on partition made among them. Apart from these lands no other land was in their occupation. They are all small farmers solely

dependent on the income from these lands. There are more than 100 coconut trees and they are cultivating paddy and other wet crops. The said land was sought to be acquired under the impugned notification for allegedly providing for the house sites of Adi Dravidars. On an earlier occasion, when the proceeding were initiated by the Central Government, the first petitioner has filed W.P.No.9767 of 1995 which was allowed by this Court on 31.10.1995. Subsequently, under the provision of the Tamil Nadu Act 31 of 1978 the proceedings were again initiated on 27.9.1995, the first petitioner was called upon to attend for an enquiry on 24.10.1995 at 3.00. p.m. Accordingly the first petitioner appeared on behalf of his father who was aged about 78 years and submitted their objections. He also requested the second respondent to give an opportunity to make their objections before the first respondent to drop the further proceedings. Till date no such opportunity has been given. The objections of the petitioners were not considered in proper perspective and the respondents have simply over-ruled their objections without any substance. They did not receive any report on the objections raised by the petitioners. In the affidavit, the first petitioner has also given further details as regards other poramboke lands available in the vicinity.

3. In the counter filed by the respondents, it is stated that based on the representation of the Arunlhathiyars of Renugapuram and Jangalapalli Village, necessary proposals were initiated for the acquisition of the lands in question. The Collector, Vellore District had approved the proposals in his proceedings dated 9.1.1996. The award has been passed on 22.3.1996 and the compensation amount has been deposited before the Sub-Court, Vellore. While denying the averments made in the affidavit, the respondents stated that the objections raised by the petitioners were discussed in detail and the report was submitted to the Collector explaining the issue in detail. The Collector, Vellore after due consideration had overruled the objections of the petitioners. Hence, there was no merits in the above writ petition.

4. The learned counsel for the petitioners had raised the following points:-

(a) The order is not in confirmity with Section 4(3)(b) of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act 1978. According to the learned counsel for the petitioner, there is nothing on record to show that

the District Collector was satisfied about the recommendations by the Special Tahsildar. No such communication had been communicated to the petitioners.

(b) A perusal of the file shows that the Order of the Collector is nothing more than a cyclostyled order and there is no consideration of the objections of the petitioners on merits. In this context, the learned counsel relies on the Judgment of K. Govindarajan, J in S.K.

Thirugnanasambandam and others v. The Government of Tamil Nadu and others, 2001 (I) M.L.J. 328. The learned Judge after considering the provisions in detail, hold that the Collector should consider the report in a detailed manner and only then pass orders. But the Collector without considering the report had filled up a cyclostyled form which would signify that there was no proper application of mind and such an order cannot be sustained.

(c) There is also no consideration of the objections of the petitioner that there are several poramboke lands available in the vicinity.

5. The learned Government Pleader however contends that a perusal of the files shows that all the objections were duly considered by the Special

Tahsildar and the Special Tahsildar had considered the objections in detail and had given reasons for over-ruling the same. The Collector had

perused the recommendations of the Special Tahsildar and had passed the order. There is no necessity to communicate the order of the Collector

expressing satisfaction to the landowners. Section 4(3)(b) of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 does

not require any such communication to be sent to the landowners.

6. I have considered the submissions of both sides.

7. It is not disputed that the impugned order of the District Collector is in a cyclostyled form merely states that the Collector, Vellore, North Arcot

District had accepted the recommendations of the Tahsildar and directs that the objections of the landowners to the acquisition been over-ruled.

The remaining text of the cyclostyled form is nothing but formal directions to the subordinates to proceed further with the acquisition proceedings.

Therefore, I am in agreement with the view expressed by K. Govindarajan, J. and I am inclined to hold that much orders do not satisfy the

requirement as envisaged u/s 4(3)(b) of the said Act. The District Collector

should apply his mind independently to the objections and pass detailed order dealing with objections. The provision of Act 31 of 1978 is summary in nature compared to the provision of the Central Act and it is, therefore, incumbent on the part of the authorities to strictly comply with the terms of the Act instead of adopting the very informal and causal way of dealing with the objections.

8. Further in the present case, there is also another defect as could be seen from the file. There are two separate files. One dealt with Survey

No.133 and another dealt with Survey No.134. While in the files relating to Survey No.133, there is a reference to the objections filed by the

landowners. In the file relating to Survey No.134, the order of the Special Tahsildar proceeds as though there was no objection from the

landowners. In page No.183 of the file, the Tahsildar has written out certain objections in black ink. Later that portion is completely struck out and

on the margin there is an endorsement to the effect that the owner of the land did not turn up for the enquiry. It is needless to point out that the writ

petitioner is the owner of both the said lands and his objections were with reference to both survey numbers. Therefore, the manner in which the

file relating to Survey No.133 has been handled is on the face of it consistently. Further surprising factor is with reference to the same file, again the

cyclostyled order of the Collector is passed as though the objections of the landowners had been over-ruled.

9. I am inclined to hold that the entire proceedings have been handled by the respondents in a manner not consistent with the seriousness with

which the requirements, under the Act have to be complied with. Therefore, I have no alternative to except to quash the proceedings.

10. With the result, this writ petition is allowed. No costs.