(2003) 10 MAD CK 0103

In the Madras High Court

Case No : Writ Petition No. 8416 of 1999

G. Ramasamy APPELLANT

Vs

The District Collector and The Special Tahsildar, Adi-Dravidar Welfare RESPONDENT

Date of Decision : 07-10-2003

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2004) 4 LW 207

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

Bench : Single Bench

Advocate : Ar.L. Sundaresan, for P. Balasubramanian, for the Appellant; D. Malarvizhi, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

P.K. Misra, J.—Heard the learned counsels appearing for the parties.

2. In this writ petition, the petitioner has challenged the acquisition of land under Tamil Nadu Acquisition of Land for Harijan Welfare Schemes

Act, 1978, hereinafter called the Act.

3. Several contentions have been raised. However, it is not necessary to deal with all those contentions as in my opinion, the writ petition is to be

allowed and the impugned proceedings have to be quashed on the ground that the decision to acquire the land has been taken by the District

Revenue Officer and not by the District Collector which is apparent from the orders produced in the typed set as well as from the file which was

produced by the learned Mrs. D. Malarvizhi appearing on behalf of the Government.

4. Section 4 of the Act is to the following effect:

4. Power to acquire land.---(1) Where the District Collector is satisfied that for the purpose of any Harijan Welfare Scheme, it is necessary to

acquire any land, he may acquire the land by publishing in the District Gazette a notice to the effect that he has decided to acquire the land in

pursuance of this Section.

(2) Before publishing a notice under sub-section (1), the District Collector or any Officer authorised by the District Collector in this behalf, shall

call upon the owner or any other person, who, in the opinion of the District Collector or the Officer so authorised may be interested in such land, to

show cause why it should not be acquired.

(3) (a) The District Collector may, where he has himself called upon the owner or other person to show cause under sub-section (2), pass such

orders as he may deem fit on the cause so shown;

(b) Where any Officer authorised by the District Collector has called upon the owner or other person to show cause under sub-section (2), the

Officer so authorised shall make a report to the District Collector containing his recommendations on the cause so shown for the decision of the

District Collector. After considering such report the District Collector may pass such orders as he may deem fit"".

5. On perusal, the aforesaid provision, it is clear that the decision to acquire the land is to be taken by the District Collector and not by any other

Officer or authority including the District Revenue Officer.

6. Learned counsel appearing for the respondent submitted that the Collector has delegated such power to the District Revenue Officer. The file

containing such delegation has been produced before me. The power u/s 4 is a statutory power conferred by the Act and there is no provision in

the statute which authorises the Collector to delegate such power to any other authority.

7. The learned counsel for the respondents, however, relied upon the provisions containing in Section 16 of the Act, which is to the following

effect:

16. Delegation of functions-The Government may, by notification in the Tamil Nadu Government Gazette, direct that any power conferred or any

duty imposed on them by this Act except the power to make rules, shall, in such circumstances and under such conditions, if any, as may be specified in the Notification, be exercised or discharged also by the District Collector"".

Explanation.---For the purpose of this section ""District Collector"" shall include the District Revenue Officer.

8. The delegation contemplated in Section 16 relates to the delegation of any power or duty imposed on the Government and it does not

contemplate delegation of any power or function of the Collector. The explanation indicates that for the purpose of this section (meaning thereby

section 16) the expression Collector includes District Revenue Officer. The explanation does not provide that for the purpose of the entire Act, the

expression Collector includes the District Revenue Officer.

9. A similar view has been expressed in W.P.Nos.6307 and 6308 of 1998 disposed of on 15.7.2003.

