

(2009) 01 MAD CK 0223
In the Madras High Court
Case No : Writ Petition No. 428 of 2004

G. Sriramulu and S. Padma alias Padmavathi	APPELLANT
Vs	
The District Collector and Land Acquisition Officer and Special Tahsildar (ADW)	RESPONDENT

Date of Decision : 23-01-2009

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 5, 6
Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 — Section 2,
4(1), 4(2)
Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Rules, 1979 — Rule 3(1)

Citation : (2009) 3 MLJ 1229

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : S.B.S. Raman, for the Appellant; D. Geetha, Additional Government
Pleader, for the Respondent

Final Decision : Dismissed

Judgement

M. Jaichandren, J.—Heard the learned Counsel appearing for the petitioners and the learned Counsel appearing for the respondents.

2. It has been stated that the petitioners are the absolute owners of the agricultural lands in No. 63, Pichanoor village of Gudiyatham Taluk, Vellore

District. The lands in S. Nos. 30/2, 42/2, 43/2A stand in the name of the first petitioner. The lands in S. Nos. 30/1, 42/1 and 43/1B stand in the

name of the second petitioner. The lands are agricultural in nature. The entire extent of lands is being irrigated by well water and paddy is being

cultivated therein and there are more than 200 mango, coconut and teak trees in the said lands.

3. It has been further stated that notice in Form-I under R.C.A. No. 469/99,

dated 30.6.1999, had been issued by the second respondent proposing to acquire a portion of the lands owned by the petitioners for the purpose of house-sites of Adi Dravidars and Arunthathiyars of Rajipatti, H/O Kondasamudram and R.S. Nagar of Gudiyatham Town. The name of the first petitioner did not figure in the Form-I notice, though his lands in S. Nos. 30/1, 42/1 and 43/1B were proposed to be acquired. In their objections submitted, on 27.7.1999, the petitioners had, inter alia, pointed out that already an extent of 1.75 acres in S. Nos. 44/2B2, 44/2B3, and 44/2C1 of Pichanoor Village of Gudiyatham Taluk, Vellore District, were being acquired from the second petitioner and her father for the purpose of formation of Left Main Canal under Mordhana Reservoir Project, Gudiyatham. Further, an extent of 1.76 acres, with a circular agricultural well and pump set, in Kondasamudram Village of Gudiyatham Taluk, Vellore District, had been acquired from the father of the second petitioner for construction of houses under the Neighbourhood Scheme, resulting in award No. 4/88-89, dated 13.10.1988. Various objections had been raised in the written representation submitted to the first respondent, on 20.11.2000. With regard to S. No. 31, it has been stated that it is adjacent to the lands of the petitioners and forms its Southern and Eastern boundaries. A licensed quarry is in existence, being operated under the quarry license issued by the first respondent, on 28.10.2002, valid for a period of five years. Since no further proceedings had been taken by the respondents, with regard to the lands in question, objections were lodged with the second respondent.

4. It has been further stated that the petitioners were under the impression that the proposed acquisition proceedings had been dropped. However, the second respondent had issued Form-III notice, dated 12.8.2003, to the petitioners informing that the first respondent had, by a notification No. 17, dated 3.7.2001, issued u/s 4(1) of the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act, 1978, decided to acquire the said land in Pichanoor village of Gudiyatham Taluk. The said notice had also called for objections, with regard to the proposed acquisition proceedings and a personal hearing had been offered, on 28.8.2003. After attending the personal hearing, a written objection, dated 28.8.2003, had also been submitted. In the objections raised on behalf of the petitioners, it was pointed

out, inter alia, that the lands in question had already been acquired for other projects. However, of these projects, not a single house had been constructed, even though the lands had been acquired in the year, 1998. The lands were being cultivated by patta holding agriculturalists like the petitioners. As many as 40 houses were unsold and are readily available for occupation in the housing projects undertaken in adjoining Kondasamudram-Madura and Rajakoil. The lands had been acquired for housing projects for Adi Dravidars and Arunthathiyars in Sethuvandai Panchayat, more than five years back and not a single house had been constructed for the intended beneficiaries. In fact, some other lands in Pichanoor Village had been sought to be acquired for the same project by a Section 4(2) notice in R.C.A. No. 1973/1995, dated 11.12.1995. while so, the petitioners were informed that an award No. 1/2003-04 had been made in R.C.A. No. 469/1999, on 15.9.2003, whereby 6.28 acres belonging to the petitioners had been acquired out of a total of 6.57 acres, which is the subject matter of the Section 4(1) notification.

5. It has been further stated that the copy of the award had not been served on the petitioners by the respondents. On coming to know that an award had been passed, the petitioners had rushed to the office of the second respondent, on 27.12.2003, and had collected a copy of the said award. No report was made by the respondents considering the objections submitted, on 28.8.2003. Therefore, the said award does not disclose the application of mind by the respondents to the objections made by the petitioners, nor does it disclose compliance, under Sections 5 and 6 of the Land Acquisition Act before the award No. 1/2003-04 had been passed by the second respondent in R.C.A. No. 469/99, dated 15.9.2003.

In such circumstances, the petitioners had filed the present writ petition, under Article 226 of the Constitution of India.

6. In the counter affidavit filed on behalf of the second respondent, it has been stated that the Adi Dravidars and Arunthathiyars of Ashok Nagar, R.S.Nagar and Rajipatti of Gudiyatnam Town had applied for house sites for residential purposes. The Land Acquisition Officer and the then Special Tahsildar (Adi Dravidar Welfare), Gudiyatham, had inspected the colonies and had found that the house site pattas have to be provided to

110 houseless poor Adi Dravidars and Arunthathiyars. As the Gudiyatham Town

is a second Class Municipality and no suitable poramboke lands and vacant natham were available in the area within the Gudiyatham Municipality, the Land Acquisition Officer and the Special Tahsildar (Adi Dravidar Welfare) had selected the petitioners' land in Pichanoor Village, which is the adjacent village to Gudiyatham Municipality. A show cause notice in Form I (Rule 3(1) Section 2 of Section 4 of Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978, (Tamil Nadu Act 31/78) was issued, on 30.6.1999, to the land owners as per the village accounts maintained by the Village Administrative Officer, Pichanoor Village. At the time of the enquiry conducted, on 27.7.1999, both the land owners V.M. Gnanasegaran and V.M. Sachidanandam and the petitioner N.B. Narayanasamy Naidu had appeared and the land owners had given a statement that the lands were sold to the petitioner's daughter, Padma and son-in-law Sriramulu and they had further stated that the lands sold to Sriramulu was only under an agreement of sale and the sale deed had not been registered. N.B.Narayanasami Naidu had given a statement that his daughter and son-in-law are residing at Bukrain in a gulf country and the lands were being purchased from their personal earnings and that he was objecting to the land acquisition proceedings. His objections were recommended to be over-ruled. Since the petitioners were residing abroad, the necessary 4 (1) proposals were sent to the Collector vide R.C.A.469/99, dated 30.11.1999. On the Section 4(1) proposal, the then District Adi Dravidar Welfare Officer, Vellore, had inspected the lands, while one Kamalanathan had objected to the lands S. Nos. 43/1 and 2 being acquired in as he had filed a writ petition in W.P. No. 3103 of 2000, challenging the proposed Land Acquisition in S. Nos. 43/1 and 2. Therefore, it was decided to delete the said Survey Nos. 43/1 and 2 and selected S. No. 31 for the approach road and the necessary Section 4(1) notice had been sent to the land owner Venkata Muni. The revised Section 4(1) proposals were sent to the Collector in R.C.A.469/99, dated 30.6.2000.

7. It has been further stated that after due consideration, the Collector of Vellore District, had overruled the objections raised by the land owners and had ordered the publication in the District Gazette, vide his proceedings Rc.K.10/50533/2000, dated 22.6.2001. As such, the Section 4(1)

notification had been published in the Vellore District Extra-ordinary Gazette No. 17, dated 3.7.2001. After getting the Pre Valuation statement

approval in Collector's proceedings Rc.K.10/50533/2000, dated 18.6.2003, an award enquiry notice, in Form III, had been issued, on

12.8.2003, fixing date of the enquiry on 28.8.2003. The petitioner N.B.Narayanasami Naidu had attended the enquiry conducted, on 28.8.2003

and had submitted an objection petition stating that the same objections had been raised at the time of the Section 4(1) enquiry. Since his objection

had already been overruled by the Collector of Vellore District and an award had been passed in Award No. 1/2003-04, (Rc.A/469/99), dated

5.9.2003. The compensation amount of 3,02,799/- had been ordered to be kept in the Revenue Deposit. Thereafter, a copy of the award had

been sent by registered post.

8. It has also been stated that since the acquired lands stood in the names of V.M. Gnanasegaran, and V.M. Sachidhanandam the name of the first

petitioner, Sriramulu had not been mentioned in the Form I notice issued, on 30.6.1999. As per the field inspection made by the then Special

Tahsildar, (Adi Dravidar Welfare), Gudiyatham, on 26.6.1999 and 19.9.2001, there was only a dilapidated and unused well in the lands in

question without any cultivation being done. The quarry site was at a distance of 2 furlongs from the acquired lands and there was no threat to life

due to the quarrying activities. Since no suitable poramboke lands were available in the village, the patta lands had to be acquired. The lands were

acquired by the Housing Board and not by the Harijan Welfare Department and the house sites allotted to the Adi Dravidars and Arunthathiyars in

Sethuvandai Village have been fully occupied and dwelling houses had been constructed and the allottees are residing in the said houses. The lands

acquired by the proceedings in R.C.A.1973/95 in Pichanoor village are for providing house sites for Adi Dravidars of R.S.Nagar. However, by

the present land acquisition proceedings, it has been proposed to allot house site pattas to the Adi Dravidars and Arunthathiyars of Ashok Nagar,

R.S.Nagar and Rajipatti in Gudiyatham Town. The objections raised on behalf of the petitioners have been considered before the award

proceedings, in award No. 1/2003-04, dated 15.9.2003, had been passed. In such circumstances, the writ petition is liable to be dismissed, as

devoid of merits.

9. It has been further stated that since the award had been passed, on 15.9.2003 and the writ petition had been filed only, on 9.1.2004, the said

writ petition filed on behalf of the petitioners cannot be sustained in the eye of law. Since all the formalities had been completed in accordance with

law and the provisions of the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act, 1978, there is no merit in the present writ petition.

10. The learned Counsel appearing on behalf of the petitioners had submitted that the award No. 1/2003-04, made by the second respondent, in

R.C.A. No. 469/1999, dated 15.9.2003, received by the petitioners, on 27.12.2003, is contrary to law, equity and violates the fundamental rights

of the petitioners.

11. It has been further stated that the name of the first petitioner, who is the owner of the lands in question, did not figure in the Form-I notice,

though his lands were proposed to be acquired. The respondents had failed to consider the fact that the lands sought to be acquired by them are

agricultural in nature, wherein crops are being cultivated and trees have been grown. The respondents had ignored G.O.Ms. No. 586, dated

12.3.1981, wherein, it has been directed that the agricultural lands in which food crops had been raised should not be acquired for the purpose of

providing house sites.

12. It has been further stated that the respondents had failed to consider the fact that the lands belonging to the second petitioner and her father

measuring an extent of 1.75 acres in S. Nos. 44/2B2, 44/2B3 and 44/2C1 of Pichanoor Village, Gudiyatham Taluk, Vellore District, had been

acquired for the purpose of formation of Left Main Canal, under the Mordhana Reservoir Project. Further, an extent of 1.76 acres in

Kondasamudram Village, Gudiyatham Taluk, Vellore District, belonging to the father of the second petitioner had also been acquired for the

construction of houses under the Neighbourhood Scheme. The respondents had also failed to consider that the licensed quarry situated in S. No.

31, forming the Southern and Eastern boundaries of the lands belonging to the petitioners, in which blasting operations are being carried on, would

pose a serious threat to the lives and properties of persons, who would occupy the acquired lands, if they are allotted house sites therein. The

respondents ought to have considered the fact that other poramboke lands, belonging to the Government, were available in the locality. They should have also considered the fact that none of the allottees had constructed houses in Kondasamudram Village. Further, the constructed houses in the housing projects undertaken in adjoining Kondasamudram-Madura Rajakoil have remained unsold.

13. It has also been stated that the respondents had not given any notice on the passing of the award No. 1/2003-04, in R.C.A. No. 469/1999, dated 15.9.2003. The respondents have not served a copy of the award to the petitioners. They have failed to consider the various objections raised by the petitioners and had proceeded with the proposed acquisition proceedings, in an arbitrary manner. Even the award does not indicate the application of mind by the respondents in considering the written objections made by the petitioners. None of the procedures established by law have been followed by the respondents before the passing of the award. Therefore, the impugned award No. 1/2003-04 in R.C.A. No. 469/1999, dated 15.9.2003, is liable to be quashed, as prayed for by the petitioners in the present writ petition.

14. Per contra, the learned Counsel appearing on behalf of the respondents had submitted that all the necessary formalities have been followed, in accordance with law, before the award, dated 15.9.2003, had been passed acquiring the lands said to be belonging to the petitioners for providing of house sites pattas for the poor Adi Dravidars and Arunthathiyars of Gudiyatham area. Since no suitable poramboke lands and vacant natham lands were available in the Gudiyatham Municipality, the Land Acquisition Officer and Special Tahsildar (Adi Dravidar Welfare) had selected the petitioners' lands in Pichanoor village adjacent to Gudiyatham Municipality for the purpose of the acquisition proceedings. A show cause notice, in Form I, had been issued, in accordance with the provisions of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978, on 30.6.1999, to V.M. Gnansekaran and V.M. Sachidanandam, as per the village accounts maintained by the Village Administrative Officer, Pichanoor Village. At the time of the enquiry, conducted on 27.7.1999, the said land owner and N.B.Narayanasami Naidu, the power Agent of the petitioners, had appeared and had submitted a statement raising objections against the land acquisition proceedings. The objections had been

overruled and the necessary Section 4(1) proposals had been sent to the Collector, vide proceedings, dated 30.11.1999. After considering the

objections raised by the land owners, the District Collector, Vellore District, had ordered that the necessary publication be made in the District

Gazette, vide his proceedings, dated 22.6.2001. As such, the Section 4(1) notification had been published in the Vellore District Extraordinary

Gazette No. 17, dated 3.7.2001.

15. The learned Counsel appearing on behalf of the respondents had submitted that N.B.Narayanasami Naidu, the power agent of the petitioner,

had attended the enquiry conducted, on 28.8.2003. Pursuant to the award an enquiry notice, in Form-III, had been issued on 28.8.2003

objections had been raised by the said N.B.Narayanasami Naidu. Since the objections raised by N.B.Narayanasami Naidu had already been

overruled by the Collector, Vellore District, an award had been passed, in Award No. 1/2003-04, (R.C.A.469/99), dated 5.9.2003. The

compensation amount of Rs. 3,02,799/- had also been ordered to be paid to the land owners. The claim of the petitioners that the lands acquired

by the respondents were agricultural in nature has been denied by the learned Counsel for the respondents.

16. It has been stated that at the time of the field inspection, on 26.6.1999, by the then Special Tahsildar,(Adi Dravidar Welfare), Gudiyatham, he

had found that the lands in question were barren without any cultivation and there was an unused well and no electricity connection had been

obtained for the well. Again, during the field inspection, on 19.9.2001, it was found that the said lands were in the same condition, as on

26.6.1999. There was no paddy cultivation, as claimed by the petitioners, nor there were trees grown in the said lands. Since all the necessary

formalities had been complied with by the respondents, as required under law, the claims made by the petitioners cannot be sustained.

17. It has been further contended that the Form I notice had been served on the original owners of the lands in question, on 30.6.1999. They had

appeared during the enquiry and had raised their objections. The land owners had stated that the lands had been sold to Sriramulu and

padmavathy, who were living abroad. N.B.Narayanasami Naidu, who is the father-in-law of the first petitioner and the father of the second

petitioner, had submitted his objections, on 21.7.1999, on behalf of the petitioners. During the enquiry, dated 27.7.1999, the original land owner

and the subsequent purchasers had submitted their applications. However, the objections had been overruled and a report had been submitted to

the Vellore District Collector, on 27.4.2001. Thereafter necessary formalities had been completed and the award had been passed, on 15.9.2003,

and the compensation had been deposited in the State Bank of India.

18. The main contention raised by the learned Counsel appearing for the respondents is that the petitioners cannot challenge the land acquisition

proceedings after the passing of the award. The award had been passed, on 15.9.2003 and the present writ petition had been filed only in the

month of January, 2004.

19. The learned Counsel appearing for the petitioners had relied on the decision of a Division Bench of this Court in *Lakshmi v. The District*

Collector, Salem and Anr. 2006 WL.R. 416 to contend that the petitioners ought to have been issued with the notice in Form I, under Rule 3(1) of

the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Rules, 1979. As such, notice had not been issued to them by the respondents

before the completion of the land acquisition proceedings initiated under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act,

1978.

20. The learned Counsel appearing for the petitioners had also relied on the following decisions in *P.S. Subramaniam Mudaliar and Anr. v. The*

Collector 2004 W L.R. 782, *Vedanayagam S.P. v. Secretary, Government of Tamil Nadu* 1996 W.L.R. 348 and *Lakshmi v. The District*

Collector, Salem and Anr. 2006 Writ L.R. 416, to further contend that the land acquisition proceedings, conducted without issuing notice to the

land owners or persons interested therein, would be vitiated.

21. The main contention of the learned Counsel appearing for the respondents is that the writ petitioner has filed the present writ petition after the

award had been passed in the land acquisition proceedings and therefore, the writ petition is not maintainable. The learned Counsel appearing for

the respondents had relied on the following decisions in support of her contentions:

(i) *Tej Kaur and Others, etc. Vs. State of Punjab and Others,*

- (ii) Ramalingam and Others Vs. The State of Tamil Nadu and Others,
- (iii) S. Harshavardhan and Another Vs. State of Tamil Nadu and Others,
- (iv) The Municipal Council, Ahmednagar and Another Vs. Shah Hyder Beig and Others,
- (v) N. Kunnai Gowder Vs. The Coimbatore District Co-op. Milk Producers" Union Ltd.,
- (vi) The Chairman, Tamil Nadu Housing Board v. P. Karuppa Konar 2007 (5) CTC 355.

22. In view of the submissions made by the learned Counsels appearing for the petitioners, as well as the respondents, and in view of the decisions cited by the learned Counsels and on a perusal of the records available, this Court is of the considered view that the petitioners have not now shown sufficient cause or reason for this Court to grant the prayer, as prayed for in the present writ petition.

23. From the records available, it is clear that the necessary procedures established by the provisions of the Tamil Nadu Acquisition of Land for

Harijan Welfare Schemes Act, 1978, and the Rules framed thereunder had been followed by the respondents during the land acquisition

proceedings resulting in the award of the second respondent, dated 15.9.2003. Even if it could be said that the petitioners are interested parties, as

the owners of the lands sought to be acquired by the respondents, it is clear from the records available before this Court that they had been given

sufficient opportunities to raise their objections against the acquisition proceedings. The grounds raised on behalf of the petitioners, in challenging

the acquisition proceedings and the subsequent award passed as a result of the said proceedings, are not sustainable in the eye of law. No valid

reasons had been shown by the petitioners for this Court to hold that the land acquisition proceedings are vitiated.

24. Further, it is not in dispute that the present writ petition had been filed subsequent to the passing of the award, on 15.9.2003. It is well settled,

in view of the decisions cited supra, that a writ petition challenging the award, after it has been passed, is not maintainable. In such view of the

matter, the present writ petition is liable to be dismissed, as not maintainable, at this stage. Hence, the writ petition stands dismissed. Consequently,

connected W.P.M.P. No. 32415 of 2005 is dismissed. No costs.