
(2007) 12 MAD CK 0204

In the Madras High Court

Case No : Writ Petition No. 7986 of 1999

Gnanaiah Samuel

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 14-12-2007

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 11, 12(2)
Tamil Nadu Land Acquisition for Harijan Welfare Schemes Act, 1978 — Section 4
Tamil Nadu Land Acquisition for Harijan Welfare Schemes Rules, 1979 — Rule 3, 3(1)

Citation : (2007) 12 MAD CK 0204

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : J.R.K. Bhavanantham, for the Appellant; D. Srinivasan, Additional Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

M. Jaichandren, J.—Heard Mr. J.R.K. Bhavanantham, the learned Counsel appearing for the petitioner and Mr. D. Srinivasan, the learned

Additional Government Pleader appearing for the respondents.

2. It is stated that the petitioner is the owner of Punja lands comprised in Survey No. 11/1, having an extent of 5 acres and 30 cents, and survey

No. 13, with an extent of 2 acres and 06 cents, at Palayamchettykulam, Tirunelveli District. The petitioner had obtained a licence for quarrying and

crushing stones in the land in question.

3. It is stated that the licence had been issued by the District Collector, Tirunelveli, for using the said land for crushing stones, as they were not fit

for use as house sites. However, the third respondent had served form-1 notice, prescribed under Rule 3(1) of The Tamil Nadu Land Acquisition

for Harijan Welfare Scheme Act, 1978. From the said notice, the petitioner came to know that the lands in question were required for the purpose

of providing house sites to Adidravidas living in the surrounding villages. The form-1 notice, dated 30.6.1998, was received by the petitioner only

on 6.7.1998, for the hearing fixed on the same date. The petitioner had raised his objections to the acquisition and had also sent a representation

requesting for sufficient time to be provided for his appearance.

4. It is also stated that the procedure contemplated u/s 4 of The Tamil Nadu Land Acquisition for Harijan Welfare Scheme Act, 1978, had not

been followed. Further, the provision of Rule 3 of the Rules formulated under The Tamil Nadu Land Acquisition for Harijan Welfare Scheme Act,

1978, had not been complied with. Since the required notice had not been given before 15 clear days for the appearance of the person interested

in the lands the mandatory provisions of the Act and the Rules have been violated causing prejudice to the petitioner.

5. The petitioner had also stated that a notice had been served on him requesting him to appear for the award enquiry, on 26.2.1999. He had

raised his objections and thereafter, the third respondent had passed the impugned award No. 7/98-99-A/855/98, dated 1.3.1999, determining

the compensation to be given for the lands acquired at Rs. 2,46,238/-. The third respondent had served form No. 9 notice, prescribed u/s 12(2) of

The Land Acquisition Act, 1894, in reference No. Na.Ka.855/98, dated 1.4.1999, even though it is clear that the provisions of the said Act would

not apply to The Tamil Nadu Land Acquisition for Harijan Welfare Scheme Act, 1978. In such circumstances, the petitioner has preferred the writ

petition before this Court, invoking Article 226 of the Constitution of India.

6. In the counter-affidavit filed on behalf of the respondents, the claims made by the petitioner had been denied. It has been stated that there is

nothing shown on behalf of the petitioner to substantiate his claims that the licence had been granted for carrying on quarrying and crushing of stone

in his acquired lands. The claim of the petitioner that the acquired lands are not fit for house site is incorrect.

7. It has also been stated that though the petitioner had received the notice for the enquiry held, on 6.7.1998, the petitioner's brother Manickam

Rajiah had appeared before the Special Tahsildar, Tirunelveli, and had given a

statement stating that he has no objection for the lands in question

being acquired. Further, the Special Tahsildar, (Adi Dravidar Welfare) in his proceedings A.855/98, dated 16.10.1998, had issued a notice to the

petitioner as well as to his brother to appear before him, on 10.11.1998. Even though the petitioner's brother had received the notice, on

6.11.1998, the petitioner had refused to receive the notice.

8. It has been further stated that the land acquisition proceedings are in accordance with law and the award has been passed taking into

consideration all the relevant provisions of law.

9. At the stage of the hearing of the writ petition, it has been pointed out by the learned Counsel appearing for the respondents that the writ petition

has been filed after the passing of the award by the third respondent, on 1.3.1999. Therefore, the writ petition is liable to be dismissed, in view of

the order passed by a Division Bench of this Court in Ramalingam and Ors. v. The State of Tamil Nadu and Ors. 2005 2 L.W.693, wherein, it has

been held as follows:

These writ appeals have been filed against the impugned common judgment dated 16.12.2002.

2. We have heard the learned Counsel for the parties and have perused the records.

3. In these appeals, the facts are that the Award u/s 11 of the Land Acquisition Act was given on 7.11.1996 whereas the writ petitions were filed

on 28.11.1996, i.e. after the award was passed. It has been repeatedly held by the Supreme Court that no writ petition should be entertained after

the award under the Land Acquisition Act has been passed vide Tej Kaur and Others, etc. Vs. State of Punjab and Others, ; The Municipal

Council, Ahmednagar and Another Vs. Shah Hyder Beig and Others, ; Executive Engineer, Jal Nigam Central Stores Division, U.P. Vs. Suresha

Nand Juyal alias Musa Ram (Deceased) by LR's and others, ; and State of Tamil Nadu v. L. Krishnar, (1996) 1 SCC 250 . Following the

aforesaid decision, we are of the opinion that the writ petitions itself were not maintainable and they should have been dismissed on this ground

itself. Connected WAMP Nos. 1595 to 1599 of 2005 are closed.

10. Considering the submissions made on behalf of the parties concerned and in view of the order passed by the Division Bench of this Court in

Ramalingam and Ors. v. The State of Tamil Nadu and Ors. 2005 2 L.W. 693, this Court is of the considered view that the petitioner has not

shown sufficient cause or reason to grant the relief as prayed for in the writ petition. Therefore, the writ petition stands dismissed. No costs.