
(2013) 07 MAD CK 0110

In the Madras High Court

Case No : Writ Petition No. 19318 of 2013 and M.P. No. 1 of 2013

K. Murugananthan and Others

APPELLANT

Vs

The District Collector and The Special Tahsildar

RESPONDENT

Date of Decision : 26-07-2013

Acts Referred:

Citation : (2013) 07 MAD CK 0110

Hon'ble Judges : D. Hariparanthaman, J

Bench : Single Bench

Advocate : M.S. Palanisamy for Mr. V. Ravichandran, for the Appellant; M.E. Raniselvam, AGP, for the Respondent

Final Decision : Dismissed

Judgement

D. Hariparanthaman, J.—The petitioners are owners of dry lands in S. No. 7/3B2, 68, Vattur Village, Tiruchengode Taluk, Namakkal

District. The lands of the petitioners were acquired under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (for short

Tamil Nadu Act 31 of 1978). A notification in Roc. No. 34994/2011 D1, dated 18.4.2013 u/s 4(1) of the Tamil Nadu Act 31 of 1978 was

published in Namakkal District Gazette, dated 9.5.2013. The same is questioned in this writ petition.

2. The learned counsel for the petitioners was heard. The learned Additional Government Pleader, who took notice, was directed to produce the original records. Accordingly, she produced the original records.

3. The learned counsel for the petitioners made the following submissions:

(a) The acquired lands were Natham as per the village records. Hence the acquisition is bad.

(b) Earlier the same lands were acquired by issuing 4(1) notification, dated 10.1.2001 under the Tamil Nadu Act 31/1978. The petitioners

questioned the same by filing W.P. No. 9794 of 2001. This Court allowed the writ petition on 3.9.2010 and the acquisition proceedings was

quashed. No liberty was given to the respondents to recommence the proceedings again. Hence the impugned notification is bad.

(c) As per Section 4(1) of the Tamil Nadu Act 31/1978, the satisfaction of the first respondent is relevant for acquisition of land. But the impugned

notification states that based on the satisfaction of the Tamil Nadu Government, the acquisition was made. Hence the impugned notification is bad.

4. Earlier, the subject lands were acquired by notification, dated 10.1.2001 issued u/s 4(1) of the Act. The same was challenged by the petitioners

in W.P. No. 9794 of 2001. The petitioners contended that the second respondent was not authorised by the first respondent to hold an enquiry u/s

4(2) of the Act. Hence the enquiry made by the second respondent was without jurisdiction. On the said ground, the writ petition was allowed on

3.9.2010 and the notification was quashed.

5. After issuing the notification, dated 10.1.2001, the lands were classified as Natham in the village land records. In fact, it is called as

Arunthathiyar Natham in the village records after acquisition. The relevant passage that is found in the impugned proceedings, dated 18.4.2013,

that is enclosed in page 37 of the typed set is extracted hereunder:

VERNACULAR (TAMIL) PORTION DELETED

6. Therefore, the submission of the learned counsel for the petitioners has no substance.

7. The learned counsel for the petitioners seek to project as if the lands of the petitioners were classified as Natham and the same was sought to be

acquired under the Tamil Nadu Act 31/1978. This is not so. The records clearly discloses that lands were classified as dry lands before acquisition

that was made in 2001. After acquisition, the lands were reclassified as Arunthathiyar Natham since lands were acquired for providing house site

patta to Arunthathiyars, a scheduled caste community. Therefore, I have no hesitation to reject the submission made by the learned counsel for the

petitioners that lands acquired were Natham lands.

8. The second submission is that no liberty was given in the order dated

3.9.2010 in W.P. No. 9794 of 2001 to recommence the proceedings

afresh. Hence the entire acquisition proceedings resulting in the impugned notification is bad.

9. The acquisition proceedings made in 2001 was quashed by order dated 3.9.2010 in W.P. No. 9794 of 2001 on technical ground that the

second respondent was not authorised by the first respondent to conduct an enquiry u/s 4(2) of the Tamil Nadu Act 31 of 1978. It was not on merits.

10. It is different matter if acquisition proceedings was quashed on merits, i.e., if this court held that there was no justification for acquiring the lands

of the petitioners by way of the impugned notification and the notification was quashed, then the authorities cannot again resort to acquisition of the

same lands. But, in this case, the acquisition proceedings was quashed on technical ground, as stated above. Hence the submission of the learned

counsel for the petitioners that in view of the order dated 3.9.2010, the impugned notification is bad has no substance. This submission is also

therefore rejected.

11. The last submission is that the impugned notification is contrary to Section 4(1) of the Tamil Nadu Act 31/1978. According to the learned

counsel for the petitioners, satisfaction of the first respondent is contemplated u/s 4(1) of the Tamil Nadu Act 31/1978. But, the notification

proceeds as if it was decided by the Tamil Nadu Government to acquire the lands.

12. I have perused the entire records. There is no directive from the Tamil Nadu Government to the first respondent to acquire the lands. The first

respondent took the decision to acquire the lands on his own based on the fact that Arunthathiyars in Vattur village were without house sites and

there was demand from Arunthathiyars to provide house sites.

13. Further more, the order in Roc No. 34994/2011, dated 18.4.2013 is a detailed order of the first respondent as to why the acquisition shall be

made. The first respondent considered the report of the second respondent after holding 4(2) enquiry and passed the said order dated 18.4.2013.

The said order is enclosed in page 37 of the typed set. This led to the issuance of 4(1) notification.

14. The relevant passage from the notification dated 18.4.2013 of the first respondent in this regard is extracted hereunder:

VERNACULAR (TAMIL) PORTION DELETED

15. The aforesaid passage makes it clear that the first respondent alone decided about the acquisition.

16. The learned counsel for the petitioner relies on the very beginning sentence of the impugned publication of the notification and sought to argue

that the Government of Tamil Nadu alone decided to acquire the land. He has relied on the following sentences from the impugned notification in

support of his submission:

Whereas it appears to the Government of Tamil Nadu that the Land specified in the schedule below and situated in the No. 68 Vattur village,

Thiruchengode Taluk is needed for the purpose of Harijan Welfare schemes to wit for the provision of House site pattas to the Arunthathiyars at

Vattur village.

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Now, therefore in exercise of the powers conferred by sub-section (1) of section 4 of the said Act, the Collector of Namakkal District hereby

directs that the lands be acquired under the provision of the said section.

17. From the original records produced by the respondents, I am of the view that based on the satisfaction of the first respondent, the acquisition

was made. The aforesaid sentences cannot be taken as the basis to quash the proceedings when the file clearly reveals that after satisfaction of the

first respondent, the acquisition was ordered by him.

18. The proceedings dated 18.4.2013 of the first respondent also states that the lands were acquired for Tamil Nadu Harijan Welfare scheme.

Therefore, the aforesaid sentences from the impugned notification shall be understood as the lands were acquired for Tamil Nadu Harijan Welfare

Scheme. Hence this submission also has no substance. For all these reasons, the writ petition fails and the same is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.