
(1997) 02 MAD CK 0020
In the Madras High Court

K. Ramachandran and Others

APPELLANT

Vs

State of Tamil Nadu and Another

RESPONDENT

Date of Decision : 26-02-1997

Acts Referred:

Land Acquisition Act, 1894 — Section 4(1), 6

Citation : (1998) 1 MLJ 112

Hon'ble Judges : E. Padmanabhan, J

Bench : Division Bench

Judgement

E. Padmanabhan, J.—The petitioners four in number, have filed the present writ petition praying for the issue of a writ of certiorari or any

other appropriate writ, order or direction in the nature of writ calling for the records of the first respondent relating to notification under Sections

4(1) and 6 of the Land Acquisition Act in G.O. Ms. No. 1480, Adi Dravidar & Tribal Welfare, dated 31.8.1990 published on 9.10.1990 and

G.O. 3-D No. 725, Adi Dravidar and Tribal Welfare dated 30.7.1991, published on 25.9.1991 in respect of petitioners' land bearing S. No.

497341 measuring 1.19.0 hectares in Therukalladaikurichi village, Cheran Mahadevi District and quash the same.

2. The respondents have filed their counter-affidavit in the form of petition to vacate the order of interim stay.

3. It is not necessary to go into the averments as well as the objections not out in the counter-affidavit. For the purpose of the present writ petition,

it is sufficient to note the following massage in the counter affidavit:

It is submitted that the award enquiry was conducted on 24.3.1992 at the Village Chavadi Kallidnikurichi. One of the petitioners Thiru. K.

Vaidyanathan for himself and his three brothers, other petitioners was present and gave a statement. The award in question is ready to be passed.

It is obvious to state, till this date no award has been passed. As laid down by the Apex Court and followed in a number of decisions of this Court,

the acquisition in questioned cannot be continued under the Central Act as the acquisition in question is only for the purpose of Harijan Welfare

Scheme, and the acquisition has to be undertaken only under the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act (31 of 1978).

The Division Bench of this Court in WA 114 of 1995 has held thus:

A Division Bench of this Court, consisting of the Honourable Chief Justice and Raju, J. in Writ Appeal No. 1987 of 1995, dated 6th September,

1995 has also quashed the award which was passed subsequent to the date of the Supreme Court judgment dated 22.11.1994. Consequently, the

Division Bench has observed that the acquisition proceeding cannot at all be continued under the provisions of the Central Land Acquisition Act.

The Division Bench has also reserved the liberty to the State of Tamil Nadu to proceed with the acquisition proceedings under the provisions of the

Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978, while quashing the notifications.

AR. Lakshmanan, J. had occasioned to consider the very same point in Venkatachalapathy, R. and Anr. v. State of Tamil Nadu and Anr. 1995

W.L.R. 789 and held as follows:

As already seen the Supreme Court has upheld the validity of this Act except in so far as they provide for payment of compensation in instalments,

the said Act being ultra vires the Constitution. Therefore, the State is precluded from acquiring the land for Harijan Welfare Scheme under the Act.

Hence, I am of the opinion that the entire proceedings as initiated under the Central Act are bad. Further, as per the judgment in SLP (C) No.

16989 of 1991, the initiation of the land acquisition proceedings under the Act are without authority of law and the respondents in my opinion also

are not entitled to continue the proceedings under the Land Acquisition Act, having regard to the provisions of Section 20 of the Act 31 of 1978.

Inasmuch as the Supreme Court has upheld the validity of the Act 31 of 1978, the proceedings for acquisition of land for Harijan Welfare could be

taken only under the said Act. Inasmuch as in the instant case, the proceedings

have been taken under the Land Acquisition Act, 1894, the same is without jurisdiction or authority of law. In the instant case, as the awards have been passed on 18.7.1995, which was subsequent to the decision of the Supreme Court, the entire proceedings are bad and the same are liable to be struck down.

Following the above decision and on the facts of this case the impugned proceeding are quashed and the writ petition is allowed. No costs, It is well open to the respondents to proceed afresh under the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act (31 of 1978).

4. In view of the order passed in the main writ petition, no separate orders are necessary in the connected W.M. Ps and they are closed.