
(2002) 11 MAD CK 0136

In the Madras High Court

Case No : Writ Petition No. 825 of 1995 and W.M.P. No. 1246 of 1995

Kulanthai Ganapathi Nadar

APPELLANT

Vs

The Secretary to Government, Housing and Urban
Development, Department and The Special Tahsildar,
(Neighbourhood scheme) and Land Acquisition Officer

RESPONDENT

Date of Decision : 22-11-2002

Acts Referred:

Land Acquisition Act, 1894 — Section 3, 4, 6

Citation : (2002) 11 MAD CK 0136

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

Bench : Single Bench

Advocate : A. Sivaji, for the Appellant; N.G. Kalaiselvi, Special Govt. Pleader, for the Respondent

Final Decision : Allowed

Judgement

P.K. Misra, J.—The petitioner has challenged the land acquisition proceedings in this writ petition. The land is sought to acquire for Neighbourhood scheme of Tamil Nadu Housing Board.

2. One of the contentions raised by the petitioner is to the effect that notification u/s 4 and declaration u/s 6 of the Land Acquisition Act (hereinafter referred to as the Act) were published in newspapers which did not have wide circulation in the locality.

3. As per the counter affidavit, notification u/s 4(1) was published in Kumari Murasu and Dina Thoodhu and declaration u/s 6 was published in Makkal Kural and Vetri Malai.

4. In the decision reported in N. Chelladurai Vs. The Government of Tamil Nadu and another, notifications relating to acquisition of land for the very same Housing Board in the very same area under the Neighbourhood Scheme had been published in Makkal Kural and Vetri Malai. Publication in the aforesaid

newspapers was found to be in violation of the provisions relating to publication in newspapers having wide circulation as those newspapers did not have any circulation in the very same locality.

5. The aforesaid reported decision has been subsequently followed by a learned single Judge of this Court in judgment dated 24.7.02 in W.P. No. 21479 of 1994 and other connected matters. The challenge in the aforesaid writ petitions was also in respect of neighbourhood scheme of the Housing Board in the very same area. In those cases, publication of 4(1) notification was in Kumari Murasu and Dina Thoodhu and Section 6 declaration was published in Makkal Kural and Viduthalai. Publication in these newspapers were found to be insufficient for the purpose of complying with the provisions relating to publication in the newspapers.

6. The present case also relates to neighbourhood scheme in the very same area though under a different notification. Therefore, there is no escape from the conclusion that the requirement relating to publication in newspapers had not been complied with. On this ground alone, the land acquisition proceedings is liable to be quashed.

7. Apart from the above, it appears that in the decision dated 24.7.2002, the learned single Judge also found fault with the acquisition of the Housing Board on the ground that prior approval u/s 3(f)(vi) of the appropriate Government had not been obtained.

The ratio of the aforesaid decision is equally applicable to the present case.

8. Learned counsel appearing for the respondents, however, submitted that the writ petition has been filed after a long delay and the writ petition should be dismissed on the ground of laches.

9. Learned counsel appearing for the respondents has relied upon the decision of a learned single Judge of this Court in W.P. Nos. 19439 and 19400 of 1994 dated 5.4.2002. Since it has been found in the present case that there has been no proper publication in the newspapers and prior approval of the Government had not been obtained, the ratio of the decision in W.P. Nos. 19439 and 19400 of 1994 is not applicable.

10. In view of the aforesaid conclusions, it is unnecessary to notice other questions raised by the petitioner and the land acquisition proceedings is liable to be quashed. The writ petition is accordingly allowed. No costs. Consequently, WMP. No. 1246 of 1995 is closed.