

(2011) 06 MAD CK 0067

In the Madras High Court

Case No : Writ Petition No. 10951 of 2011

M. Madhan Mohan

APPELLANT

Vs

The District Collector and Others

RESPONDENT

Date of Decision : 21-06-2011

Acts Referred:

Constitution of India, 1950 — Article 14, 21, 226
Land Acquisition Act, 1894 — Section 17(1), 17(2), 4(1), 6

Citation : (2011) 06 MAD CK 0067

Hon'ble Judges : V. Dhanapalan, J

Bench : Single Bench

Advocate : D. Baskar, for the Appellant; P.S. Siva Shanmugasundaram, for R1 to R7 A.G.P. and Jayesh Dolia, for Aiyar and Dolia for R8, for the Respondent

Judgement

1. When the Miscellaneous Petition was taken up for hearing, learned Counsel on either side consented to take up the writ petition itself for final disposal.

2. The Petitioner has come up with the prayer of directing Respondents 1 to 3 herein not to evict him from his patta lands in Survey Nos. 54/3F,

54/4A, 54/4B, 56/4D, 56/4F, 56/4G, 98/3, 99, 100/A, 116/1, 119/5, 119/9, 120/3, 128/1A, 116/2, 117/1 to 117/13, 118/1 to 118/10, 119/1

to 119/7, 126/1, 126/2, 127, 128/1B, 128/2, 129/1, 130/2, 130/3, 130/4, 131/1, 131/2, 131/4, 132/1, 132/2, 133/1, 133/2, 133/3, 133/5,

137/3, 138/7, 138/6, 138/8, 138/10, 139/1, 139/4 to 139/8, 140/2, 140/3, 140/8, 140/9, 141/1, 141/2, 141/3, 142/1, 142/2, 143/1 to 143/3,

144/1, 144/2, 145/1, 145/2, 146/1, 146/2, 147/2, 147/3, 147/4, 148/1 to 148/10, 148/12, 148/13, 149/1 to 149/5 of a total extent of 86.74

acres vide patta bearing Nos. 358, 1591, 1530, 1590, 622, 2301, 534, 690, 469,

in Somanahalli Village, Dharmapuri Taluk, Dharmapuri District

without following the due process of law.

3. The case of the Petitioner is that he purchased the said patta lands vide registered Document Nos. 1592 of 2008, 1593 of 2008, 1594 of 2008,

1601 of 2008, 1603 of 2008, 2451 of 2008, 535 of 2009, 1389 of 2009, 1979 of 2009, 444 of 2010, 969 of 2010, 1418 of 2010, 1795 of

2010, 1796 of 2010, 2149 of 2010, 2882 of 2010, 2883 of 2010, 3858 of 2010, 3859 of 2010 in the office of the Sub-Registrar, Pennagaram,

from various parties in the years 2008, 2009 and 2010 for valid consideration and obtained patta in his favour vide Patta Nos. 358, 1591, 1530,

1590, 1530, 622, 2301, 534, 690 and 469. He has been in absolute possession and enjoyment with unfettered right, without any let or hindrance

whatsoever in nature. While so, the 4th Respondent and other Revenue Officials came to his land on 19.04.2011 and on 20.04.2011 along with

the 8th Respondent, their officials and 200 policemen, measured the land and informed the Petitioner that he should vacate the said lands as they

are required for the purpose of establishing the 8th Respondent's company. As they did not serve any notice to him under any of the provisions of

law, apprehending that their action may affect his rights, the Petitioner has approached this Court, as the proposed action of the Respondents is

against law and contrary to the settled proposition laid down and also against the rights guaranteed under Articles 14 and 21 of the Constitution of

India.

4. The 1st Respondent has filed counter along with the Vacate Stay Petition questioning the status of the land and the Petitioner's claim, as he is

the owner of the lands referred to above and disputed the ownership to prove his title to the said lands, thereby denying all the averments made by

the Petitioner in the affidavit. It is further stated that to improve the power production, the Power Grid Corporation of India Limited, the 8th

Respondent herein approached the Government for establishing 765/400 KV Sub-station and in that context, the 8th Respondent's official and

also the revenue officials have identified lands in Somanahalli Village and Pangunatham Village as most suited for the purpose of locating the Power

Station and requested the Government to acquire the said lands invoking the provisions of Land Acquisition Act.

4a. It is specifically stated in the counter that inspection is carried out by the officials. The necessity to establish the Power Grid Corporation by the Central Government of India undertaking is that the State is facing acute power shortage. The District Administration has no intention to evict any land owner in an arbitrary manner and submits that they will acquire the lands only under due process of law and proceedings will be initiated as per the law invoking the relevant provisions of Land Acquisition Act. The power generation and regular and uninterrupted power supply is the need of the hour and utmost importance has to be given in these matters. Therefore, the apprehension of the Petitioner is totally misconceived and the same has to be dismissed.

5. The 8th Respondent has also filed counter along with the Vacate Stay Petition. It is stated that the 8th Respondent, Power Grid Corporation of India Ltd. is a Government of India Enterprise and "Central Transmission Utility" under the aegis of Ministry of Power and it is a Corporation of national importance incorporated as a "Government Company" under the provisions of Companies Act, 1956 by Government of India with a view to develop an efficient Power Transmission System network throughout the country and to establish the National Power Grid Corporation in the country.

5a. It is further stated that M/s. Coastal Energen and M/s. Ind Bharath (Madras) Limited, who are the private power producers are establishing their power generating stations near Tuticorin. For evacuation of power from the above power projects, establishment of 765/400 KV pooling station at Tuticorin, Salem and Madhugiri under the transmission system associated with Long Term Open Access (LTOA) was decided in the 28th meeting of the Standing Committee on power system planning held on 15.06.2009. The decision in the meeting held on 15.06.2009 was approved in the 11th meeting of the Southern Regional Power Committee, Ministry of Power, Government of India held on 17.09.2009. In this regard, the 8th Respondent made a requisition to the 1st Respondent, by a letter dated 20.07.2010 for acquisition of land at Adhagapadi Village near Dharmapuri for establishment of Sub-Station. Pursuant thereto, on 13.12.2010, the 1st Respondent sent a proposal for administrative sanction to CLA/Chennai for acquiring the lands at Adhagapadi Village invoking

emergency clause u/s 17(1) of the Land Acquisition Act. By G.O.

Ms. No. 25, Power Department, dated 25.03.2011, the Government of Tamil Nadu accorded administrative sanction for acquiring lands

measuring an extent of 122.91 acres at Adhagapadi Village for establishment of 765/400 K.V. Sub-Station invoking Section 17(2) of the Land

Acquisition Act.

5b. For the purpose of preparing draft proposals for Section 4(1) and 6 of the Land Acquisition Act, when the 4th Respondent visited

Adhagapadi Village on 28.03.2011 for inspection, he was prevented from entering upon the lands for carrying out the inspection by the public and

owners of the lands. The general public numbering around 200 engaged in ""Road Roko"" and blocked the traffic and they also threatened to

boycott the general assembly elections. In those circumstances, on 06.04.2011, the 1st Respondent herein addressed a letter to the 8th

Respondent narrating the incidents which took place on 28.03.2011 when the 4th Respondent was prevented by the public and the land owners

from inspecting the lands. In the said letter, it was further stated that with a view to avoid law and order problem for acquisition of the lands at

Adhagapadi Village, the 4th Respondent has been advised to select alternate lands and in that behalf, the lands situated at Pankunatham and

Somanahalli Villages were selected for the establishment of the Sub-Station. On 20.04.2011, the Site Selection Committee from the 8th

Respondent inspected the lands at Pankunatham and Somanahalli Villages with police protection for studying the technical feasibilities for

constructing the Sub-Station.

5c. By a letter dated 21.04.2011, the 8th Respondent informed the 1st Respondent that it had inspected the alternate lands at Somanahalli and

Pankunatham Villages and that the same are found suitable for establishing the 765/400 KV Sub-Station based on techno economic considerations

including transmission lines take off both present and future requirements. In the said letter, it was further stated that the requirement of land is

about 107 acres. Along with the letter, the 8th Respondent enclosed the revenue map indicating the requirement of area along with tentative

general arrangement of switch yard drawing. The 8th Respondent has requested the 1st Respondent to hand over immediate possession of the land

invoking urgency clause u/s 17(1) of the Land Acquisition Act as the Sub-Station was scheduled to be commissioned in March 2013. On

28.04.2011, the 8th Respondent addressed a letter to the 1st Respondent enclosing the Land Plan Schedule (LPA) for the proposed land to be

acquired at Somanahalli Village. On 05.05.2011, the 1st Respondent has sent a proposal to the Commissioner, Land Administration for

administrative sanction. But, prior to the same, the Petitioner had approached this Court by filing the present writ petition. Even according to the

8th Respondent, the apprehension of the Petitioner that he will be dispossessed, is without any basis and misconceived.

6. I have heard the learned Counsel on either side on the above background pleadings and perused the material documents annexed in the typed set of papers.

7. The main thrust of submissions made by the learned Counsel for the Petitioner is that there is an attempt by the Respondents to survey the lands

without notice to the Petitioner and disposes him and therefore, having no other alternative, the Petitioner has approached this Court invoking the

jurisdiction under Article 226 of the Constitution of India to protect his interest.

8. Learned Counsel for the 1st Respondent as well as the learned Counsel for the 8th Respondent/Vacate Stay Petitioner have vehemently

contended that commissioning of Sub-Station is for the benefit of the people of that area. Since there is acute shortage of electric power to the

common man, it is barely necessary to increase power generation in that area for which they have taken steps to acquire lands and are in the initial

stage of proceedings. At that stage, the Petitioner has attempted to stall the proceedings. Learned Counsel would further submit that the

Respondents have clearly stated in the counter that there is no intention for them to acquire any land except under due process of law.

9. At this stage of arguments, it is pointed out by the learned Counsel for the Petitioner that there is already an attempt to invoke emergency clause

u/s 17(1) of the Land Acquisition Act. If this is done, the Petitioner may be put to great hardship and difficulty. Therefore, without contemplating to

proceed for acquisition under the emergency clause, it is obligatory on the part of the Respondents to follow the procedures in accordance with

law and only thereafter, acquisition proceedings have to be carried out.

10. On a perusal of the case, it appears that the lands in question are purchased by the Petitioner for valid consideration and he has registered

documents in the Office of the Sub Registrar and patta has also been granted in his favour. If that is so, necessarily, the Respondents have to follow

the procedures if there is any proposal for acquiring the lands. In this context, it would be useful to extract the entire events as narrated by the 8th

Respondent in paragraphs 7 and 8 of the counter affidavit, as under:

7. I state that for the purpose of preparing draft proposals for Section 4(1) and 6 of the Land Acquisition Act, when the 4th Respondent visited

Adhagapadi Village on 28.03.2011 for inspection, he was prevented from entering upon the lands for carrying out the inspection by the public and

owners of the lands. It is reliably learnt that the general public numbering around 200 engaged in ROAD ROKO"" and blocked the traffic and they

also threatened to boycott the general assembly elections. In those circumstances, on 06.04.2011, the 1st Respondent herein addressed a letter to

this Respondent narrating the incidents which took place on 28.03.2011 when the 4th Respondent was prevented by the public and the land

owners from inspecting the lands. In the said letter, it was further stated that with a view to avoid law and order problem for acquisition of the lands

at Adhagapadi Village, the 4th Respondent has been advised to select alternate lands and in that behalf the lands situated at Pankunatham and

Somanahalli Villages were selected for the establishment of the Sub-Station. The 1st Respondent called upon this Respondent to examine the

technical feasibility for construction of sub-station in the above said villages. On 19.04.2011 when the Site Selection Committee of the Respondent

Corporation went to inspect the lands, the general public numbering 200 lead by the Petitioner resorted to ""Road Roko"" and prevented the

Committee from entering upon the land.

8. I state that on 20.04.2011, the Site Selection Committee from this Respondent inspected the lands at Pankunatham and Somanahalli Villages

with police protection for studying the technical feasibilities for constructing the Sub-Station. By the letter dated 21.04.2011, this Respondent

informed the 1st Respondent that it had inspected the alternate lands at Somanahalli and Pankunatham Villages and that the same is found suitable

for establishing the 765/400 KV Sub-Station based on techno economic

considerations including transmission lines take off both present and future requirements. In the said letter, it was further stated that the requirement of land is about 107 acres. Along with the letter, this Respondent enclosed the revenue map indicating the requirement of area along with tentative general arrangement of switch yard drawing. This Respondent requested the 1st Respondent to hand over immediate possession of the land invoking urgency clause u/s 17(1) of the Land Acquisition Act as the Sub-Station was scheduled to be commissioned in March 2013. I state that on 28.04.2011, this Respondent addressed a letter to the 1st Respondent enclosing the Land Plan Schedule (LPA) for the proposed land to be acquired at Somanahalli Village. It is learnt that on 05.05.2011, the 1st Respondent has sent the proposal to the Commissioner, Land Administration for administrative sanction. But prior to the same, the Petitioner had approached this Hon'ble Court by filing the above Writ Petition obtained interim injunction on 27.04.2011 restraining the Respondents herein from dispossessing him from his patta land except in accordance with law.

11. In the above circumstances, it is explicitly clear that the only apprehension made by the Petitioner is that he may be evicted without following

due process of law. Now, as the Respondents have vividly stated that only after following the procedures contemplated under the Land

Acquisition Act, acquisition proceedings will be taken up by the government authorities, the apprehension of the Petitioner is dispelled.

The specific averments made by the 8th Respondent in the counter affidavit is recorded and it is made clear that if any proceedings are initiated, it

is obligatory on the part of the Respondents to proceed only in accordance with law after following the provisions contemplated under the Land

Acquisition Act.

The writ petition is disposed of with the above observation. No costs. Consequently, connected M.P. Nos. 1 to 3 of 2011 are closed.