

(2011) 07 MAD CK 0019

In the Madras High Court

Case No : Writ Petition (MD) No. 3757 of 2008

N.R. Sarojini Ammal

APPELLANT

Vs

The Tahsildar

RESPONDENT

Date of Decision : 20-07-2011

Acts Referred:

Acquisition of Lands for Harijan Welfare Scheme Act, 1978 — Section 4(1)

Citation : (2011) 07 MAD CK 0019

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

Advocate : A.R.L. Sundaresan, for Rugan and Arya, for the Appellant; D. Muruganandam, Addl. Govt. Pleader, for the Respondent

Judgement

Vinod K. Sharma, J.—The Petitioner has approached this Court, by invoking the extraordinary writ jurisdiction, with a prayer for issuance

of a writ in the nature of Mandamus, directing the Respondent, to carry out correction in the revenue records, in pursuance to the order passed by

this Court in W.P. No. 567 of 1981.

1 The Petitioner had challenged the notice issued u/s 4(1) of Acquisition of Lands for Harijan Welfare Scheme Act, 1978.

2 This Court, did not go into the merit of challenge to the acquisition, but allowed W.P. No. 567 of 1981 in the same terms as W.P. No. 797 of

1980 (ANANTHI AMMAL and OTHERS v. STATE of TAMIL NADU and OTHERS).

4. The writ appeal filed by the State was also dismissed. This Court in the case of STATE of TAMIL NADU and OTHERS v. ANANTHI

AMMAL

had held that the provisions of Acquisition of Lands for Harijan Welfare Scheme Act, 1978 were ultra vires the Constitution.

5. The State of Tamil Nadu challenged the decision of this Court before the Hon''ble Supreme Court in State of Tamil Nadu and Others Vs.

Ananthi Ammal and Others, . The appeal filed by the State was accepted and the validity of the Act upheld.

6. The contention of the learned Senior Counsel for the Petitioner, is that as No. SLP was filed against the decision of this Court in W.P. No. 567

of 1981, the order has attained finality and the Respondent therefore is bound to carry out the correction in the revenue records.

7. This contention is based on the established principle of law, that by mere change in law, the settled matter cannot be re-opened.

8. The contention raised by the learned Senior Counsel, though attractive, on the face of it, but when read with the order passed in W.P. No. 567

of 1981, it cannot be sustained.

9. This Court had allowed the writ petition filed by the Petitioner in the same terms as W.P. No. 797 of 1980 (ANANTHI AMMAL and

OTHERS v. STATE of TAMIL NADU and OTHERS). Once judgment in the case was set aside by the Hon''ble Supreme Court, it would

automatically lead to a conclusion that there is No. favourable judgment in favour of the Petitioner. The situation would have been different, in case

the order in the case of the Petitioner was not in the same terms as that of other case.

10. Consequently, there is No. merit in this writ petition, which is ordered to be dismissed.

11. However, at the same time, it has to be seen that by not challenging

to be dismissed. the judgment of this Court before the Hon''ble Supreme Court, the Petitioner has been denied the opportunity to challenge the

acquisition on merits.

12. Therefore, to settle the disputes between the parties, it would be appropriate to list W.P. No. 567 of 1981 (N.R.SAROJINI AMMAL v.

THE SPECIAL TAHSILDAR (H.W.) (THE LAND ACQUISITION OFFICER), ARUPPUKKOTTAI and Anr.) for final disposal on

03.08.2011 to be decided on merit.