
(2014) 09 MAD CK 0368
In the Madras High Court
Case No : Writ Appeal No. 106 of 2010

N.S. Muralidharan

APPELLANT

Vs

The District Collector

RESPONDENT

Date of Decision : 23-09-2014

Acts Referred:

Citation : (2014) 09 MAD CK 0368

Hon'ble Judges : V. Dhanapalan, J;G. Chockalingam, J

Bench : Division Bench

Judgement

G. Chockalingam, J.—Being aggrieved by the dismissal of the writ petition in W.P. No. 2985 of 2000, by an order dated 26.11.2009, the writ petitioner has preferred this appeal.

2. The case of the appellant/writ petitioner is that he is the owner of punja land measuring an extent of 1.09.5 hectares (2.70 cents) in Survey No. 2/3 at No. 99 Rajapalayam Village, Salem Taluk and Salem District. He had purchased the said land from one Mr. Chokkan vagayara under registered Sale Deed dated 12.07.1995 and after the said purchase, the patta in respect of the said land was transferred to his favour. On 05.08.1999, he leased out the said land excluding an extent of 2,400 sq. ft., in favour of a Trust known as Dr. Annai Subbulakshmiammal Public Charitable Trust for a period of ten years. The said trust is running a home for the aged, besides doing various services to the poor. The writ petitioner had entered into a Sale Agreement with one Ms. Yesoda, wife of K.K. Kuppu Iyer, in respect of the remaining extent of 2400 sq. ft. in the aforesaid land and the said extent was sold subsequently to Ms. Yesoda under a Registered Sale Deed dated 06.10.1999, as per the Sale Agreement stated supra. A notice dated 01.10.1999, in Form I was given by the second respondent purportedly under the provisions of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 [hereinafter referred to as "the Act"] and the Rules made thereunder stating that the aforesaid land is necessary for the purpose of providing house sites to Adi Dravidars of Kondalampatti Village and

that a statement in writing of objection as to why the said land should not be acquired, should be lodged by the persons interested within 15 days from the date of receipt of the said notice. The said notice was served upon the writ petitioner on 09.10.1999. On receipt of the same, the writ petitioner submitted a statement containing his objection regarding the acquisition of the said land to the second respondent. In the said objection, the writ petitioner brought to the notice of the second respondent about the lease to the Trust and a sale of portion of the said land to Mrs. K. Yesoda as stated above. Further, the writ petitioner had pointed out in the statement of objections that mango and coconut saplings have been planted in the said land. The Trust to which the said land had been leased out is a Public Charitable Trust and it is running a Home for the aged and an hospital for the poor, where free medical aid is being given to the poor.

3. The first respondent had issued a notification on 02.12.1999 under Section 4(1) of the Act stating that the land in question is acquired for providing house sites to the Adi Dravidars of Kondalampatti Village and the said notification was published in the District Gazette on 08.12.1999. Aggrieved by the decision of the first respondent acquiring the aforesaid land, the appellant filed a writ petition in W.P. No. 2985 of 2000 before this Court praying to quash the impugned notification dated 02.12.1999 published in the District Gazette, Salem, dated 08.12.1999 and to forbear the respondents from acquiring the aforesaid land.

4. The learned Single Judge, after hearing both sides, dismissed the writ petition filed by the appellant/writ petitioner. As against the said order passed by the learned Single Judge, the appellant/writ petitioner is before this Court by way of the above writ appeal.

5. The learned counsel for the appellant would contend that the learned Single Judge ought to have noticed that there was total non-application of mind by the first respondent herein as the impugned notification discloses that the Government of Tamil Nadu was satisfied regarding the need for acquisition of the land under the Act for provision of house sites to Adi Dravidars of Kondalampatty Village while under the said Act, satisfaction has to be expressed by the District Collector, who has been vested with the powers to acquire the land for the said purpose in terms of Section 4(1) of the Act. It is also his contention that the learned Single Judge ought to have held that the impugned notification was issued not on the satisfaction of the District Collector, Salem District, who is authorised to acquire the land as per the Act and that the acquisition itself is vitiated by reason of the fact that the satisfaction of the first respondent-District Collector is not explicit from the impugned notification.

6. It is the further contention of the learned counsel for the appellant that the learned Single Judge has not followed the principles of law laid down by the Hon'ble Apex Court in the decision reported in Delhi Administration Vs. Gurdip Singh Uban and Others, . According to the learned counsel, the learned Single Judge ought to have seen that the subjective satisfaction to acquire the property has been arrived at by the Government and the District Collector has only

exercised his power under Section 4(1) of the Act only for the purpose of implementing the decision of the Government to acquire the property for the purpose of Adi Dravidars Welfare Scheme. Referring to a judgment reported in M. Nagu and Others Vs. The District Collector and The Special Tahsildar (ADW), , learned counsel for the appellant would submit that the authority vested with the power under Section 4(1) of the Act is only the District Collector and not the Government and hence the impugned notification is not in accordance with law.

7. Per contra, learned Special Government Pleader appearing for the respondents would vehemently contend that the learned Single Judge, after going through the entire records pertaining to land acquisition and after following the principles of law laid down by the Hon"ble Apex Court and by this Court, came to a correct conclusion that the notification under Section 4(1) of the Act was correctly issued. He would further contend that as per the Rules and Forms mentioned in the Act, the principles and provisions are clearly followed by the respondents and acquisition proceedings are made in accordance with law and therefore, there is no illegality or infirmity in the order passed by the learned Single Judge. To substantiate his stand, learned Special Government Pleader also has relied on the decision reported in Delhi Administration Vs. Gurdip Singh Uban and Others, , wherein, the Hon"ble Supreme Court has held as under:

"No reasons or other facts need be mentioned in the Section 6 declaration on its face. If the satisfaction is challenged in the Court, the Government can show the record upon which the Government acted and justify the satisfaction expressed in Section 6 declaration."

8. It is admitted by both sides that the land in question was acquired for providing house sites to Adi Dravidars in Kondalampatti Village. It is also admitted by the learned counsel for the appellant that Form Nos. I and II as prescribed in the Act was served to the appellant by the competent Authority. In this regard, it is worth referring to the Statement of Objects and Reasons and also Sections 2, 3(g) and 4(1) (2) & (3) of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 [hereinafter referred to as "the Act"] which read as under:

"STATEMENT OF OBJECTS AND REASONS

Provision of house-sites, pathways, burial grounds or any other amenities for the benefit of Harijans is a socio-economic measure and the necessity to provide them needs no emphasis. This Government find that the existing Land acquisition Act, 1894 (Central Act I of 1894) does not help achieving this object in a short period as there are number of provisions in the Act which are time-consuming. This Government is, therefore, of the view that it is necessary to quicken the process of land acquisition by conferring powers to prescribed officers and also making provision for payment of compensation in instalments for phasing the financial commitment of the Government.

2. This Bill seeks to achieve the above objects.

1. ...

2. Declaration.- It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles laid down in Part IV and in particular Article 46 of the Constitution.

This section contains declaration that this Act is enacted to give effect to the policy of the State towards securing the principles laid down in Part IV (Directive Principles of State Policy of the Constitution and, in particular, Article 46 so as to enable for acquisition of Land of Harijan Welfare Schemes.

3. Definitions.- In this Act, unless the context otherwise requires,-

(a) to (f)

(g). "Harijan Welfare Scheme" means any scheme for provision of house-sites for Harijans for constructing, extending or improving any dwelling-house for Harijans or for providing any burial or burning grounds for Harijans or for providing any pathway leading to such dwelling-house, burial or burning grounds, or for providing any other amenity for the benefit of Harijans;

(h) to (j)

4. Power to acquire land. - (1) Where the District Collector is satisfied that, for the purpose of any Harijan Welfare Scheme, it is necessary to acquire any land, he may acquire the land by publishing in the District Gazette a notice to the effect that he has decided to acquire the land in pursuance of this section.

(2) Before publishing a notice under sub-section (1), the District Collector or any officer authorised by the District Collector in this behalf, shall call upon the owner or any other person, who, in the opinion of the District Collector or the officer so authorised may be interested in such land, to show cause why it should not be acquired.

(3)(a) The District Collector may, where he has himself called upon the owner or other person to show cause under sub-section (2), pass such orders as he may deem fit on the cause so shown;

(b) Where any officer authorised by the District Collector has called upon the owner or other person to show cause under sub-section (2), the officer so authorised shall make a report to the District Collector containing his recommendations on the cause so shown for the decision of the District Collector. After considering such report, the District Collector may pass such orders as he may deem fit."

9. As per the provisions of the Act, the State Government, under the directive principles of the State Policy of the Constitution of India, is duty bound to provide house sites for Harijans for constructing, extending or improving any dwelling-house for Harijans or for providing any burial or burning grounds for Harijans and to facilitate the acquiring of the land with the above object and reasoning, the

above Act was enacted by the State of Tamil Nadu. All the welfare schemes were proposed and implemented by the State of Tamil Nadu through the District Collector of each District.

10. Hence, the State Government is competent to prepare the welfare scheme for Harijans in the particular State and the District Collector is the prescribed authority under the Act for acquiring the lands and allocating funds in the budget. In pursuance of the implementation of the Government scheme, the District Collector has taken steps to acquire the lands for Harijan Welfare Schemes to execute the same for providing house sites to Harijans.

11. On a perusal of the original records, it is seen that notification in Form No. 1 prescribed under Rule 3(1) was issued on 01.10.1999 and enquiry under Section 4(2) of the Act was fixed on 25.10.1999. In response to the said notice, the appellant, who is the land owner sent an objection petition, which was received by the Special Tahsildar on 21.10.1999. Thereafter, the Special Tahsildar conducted an enquiry on 25.10.1999, in which, the appellant appeared in person and reiterated his objections. The Special Tahsildar, by an elaborate report dated 25.10.1999, after considering the objections placed by the appellant as well as after enquiring the concerned Village Administrative Officer, came to a conclusion that the statement of the objector is untenable and false; that the land owner has got 20 acres of land at Kondalampatti Village, Salem Taluk and the land has not been used for old age Association as represented by the land owners. The said report in Roc. No. 661/99 (ADW dated 25.10.1999) was forwarded to the District Collector and there is recording of satisfaction of the District Collector that the lands in question need to be acquired. Thus, the respondents having produced the records to show that the first respondent was satisfied that there is necessity for acquiring such land and the same is sufficient compliance of the statutory provision. Hence, in this case, the District Collector, after following the principles laid down by law and after satisfaction, issued notification under Section 4(1) of the Act and published the same in the District Gazette. Hence, the argument of the learned counsel for the appellant that the District Collector was not satisfied with the acquisition of land for Harijans Welfare Schemes is not at all acceptable.

12. In the above circumstances, the District Collector, on being satisfied with the Harijan Welfare Scheme of the State Government for the welfare of Adi-Dravidars to provide house sites, published a notification under Section 4(1) of the Act after following the principles of law laid down under Section 4(2)(3) of the Act.

13. Thus, on the side of the learned counsel for the respondents, it is clearly established by the Government that the District Collector, after satisfaction alone, issued notification under Section 4(1) of the Act. Form II prescribed in the Act was scrupulously followed by the authorities concerned to acquire the lands for the Harijan Welfare Schemes. Hence, the argument of the learned counsel for the appellant that the acquisition proceedings was vitiated since the District Collector has not followed the procedure as mentioned in Form II is not at all

acceptable.

14. The learned Single Judge, after considering the entire materials placed before him and after perusing the original records for the acquisition proceedings, came to a correct conclusion dismissing the writ petition. Hence, this Court is of the considered view that there is no illegality or infirmity in the order passed by the learned Single Judge in W.P. No. 2985 of 2000, dated 26.11.2009 and the same does not warrant any interference by this Court.

In the result, the writ appeal fails and the same is dismissed. No costs.