
(1994) 10 MAD CK 0008
In the Madras High Court

Oonja alias Lakshmiammal

APPELLANT

Vs

State of Tamil Nadu and Another

RESPONDENT

Date of Decision : 18-10-1994

Acts Referred:

Land Acquisition Act, 1894 — Section 4(1)

Citation : (1995) 1 MLJ 522

Hon'ble Judges : Jayasimha Babu, J

Bench : Division Bench

Judgement

Jayasimha Babu, J.—The petitioner herein has challenged the acquisition of the land bearing Survey No. 182 2-A (Part) and 182-6 situate

in No. 50, Thallakulam Village Madurai North Taluk, Madurai measuring 32 cents under notification in G.O.Ms. No. 1774 R.D. & L.A., dated

18.11.1982 published in the Gazette dated 19.11.1982. Notification u/s 4(1) of the Land Acquisition Act was issued on 8.11.1979. The purpose

for which the property was acquired was for provision of market and school etc., in K. Pudur area of Thallakulam Village by the Corporation of

Madurai. In the notification issued u/s 6 of the Act, the purpose set out is more precisely for the construction of market and a school by the

Corporation of Madurai.

2. It is not in dispute that the petitioner was served with the notice of the acquisition and that she had also objected to the same. According to her,

no enquiry as required u/s 5-A of the Act was conducted and the notice of the proposed acquisition was also not published in the locality.

According to her, it was not competent for the Madurai Corporation to initiate proceedings and for the Government to acquire the land for the

purpose of the Corporation.

3. This petition came to be filed on 5.11.1984 about two years after the notification u/s 6 of the Act was published in the Gazette.

4. The respondents have filed a detailed counter-affidavit denying all the allegations made by the petitioner. It is stated in the counter that the

notification of the proposed acquisitions was duly published in the locality at about the same time, as when the notification was published in the

Gazette. It is stated that the petitioner was served with notice of the proposed acquisition and that she had sent her objections to the same when

award enquiry was held on 19.11.1990 and the objection so sent by her had been duly forwarded by the enquiry officer to the Corporation of

Madurai and remarks of the Corporation on those objections were duly communicated to the petitioner and thereafter the enquiry officer submitted

his report overruling the petitioner's objections after duly considering the same.

5. There is no dispute that the petitioner was furnished with copy of the remarks of the corporation of Madurai to her statement of objection. It is

not disputed by her that her land is situated in close proximity to the existing market and bus stand.

6. The respondents have stated in their counter that notice was sent to the petitioner after publication of the Section 6 notification and in response

thereto she had only sent a letter through her agent to the Land Acquisition Officer wherein enhanced compensation has been asked for and

thereafter the Land Acquisition Officer passed the Award on 18.1.1983. It is also stated in the counter that the respondents took possession of the

1 and 2 and on 24.1.1983.

7. At the outset, the learned Counsel for the respondents submitted that this writ petition is liable to be dismissed on the ground of laches alone. It

was also submitted by him that even on merits, the petitioner has no case.

8. Learned Counsel for the petitioner contended that there was no delay. However, the petition itself does not contain any explanation as to why

the petitioner did not approach the court immediately after Section 6 notification was published and even after she had received the notice of

enquiry for making the award. There is nearly two years delay in approaching his court.

9. Learned Counsel for the respondents relied upon the Judgment of the

Supreme Court in the case of State of Mysore and Others Vs. V.K.

Kangan and Others, , wherein at para 16 the court held that the petitioner who had approached the court in July/ August, 1969 challenging the

notification u/s 4 of the Act published in the Gazette on 19.10.1968 was guilty of laches and that the petitioner had filed the petition after

unreasonable lapse of time.

10. Learned Counsel for the respondents also relied on the decision of the Supreme Court in the case of Ramajay Foundation and Ors. v. Union

of India, All India Land Acquisition Compensation Cases, 1993 L.C.C. 327 and also the decision of the Supreme Court in the case of Aflatoon v.

Lt. Governor, Delhi (1975) 1 S.C.R. 202, in support of his submission that unexplained delay or unreasonable delay in approaching the court,

disentitles the petitioner from challenging the acquisition. Learned Counsel for the respondent also relied on the Judgment of a single Judge of this

Court in W.P. Nos. 9335 and 9337 of 1984 decided on 9.11.1993 wherein this Court held that the writ petition filed in the year 1984 challenging

the notification issued u/s 6 in 1977 suffers from laches and could not be entertained.

11. The submission of the learned Counsel for the respondents that the petition suffers from laches has to be upheld. It is not permissible, for a

person interested in the land to stand by and allow the acquisition proceedings to go on and then approach the court years after the final enquiry,

and the publication of the Section 6 notification. In this case, Section 4(1) notification was published as mentioned earlier, on 21.7.1979 and the

Section 6 notification was published on 19.11.1982. This writ petition was filed only in November, 1984. This petition came to be filed only after

the award had been made on 18.1.1983 and the possession was taken by the respondents on 24.1.1983. There is no explanation for the delay by

the petitioner.

12. Apart from the delay in filing the petition, there is no merit in any of the contentions raised. The petitioner was aware of the acquisition

proceedings and she had taken part in the same. The purpose of the acquisition is clearly a public purpose as the land is to be acquired for the

purpose of constructing a market and a school. It is certainly open to the Government to acquire the land for this purpose although the expenditure

in connection with such acquisition was to be met by the Corporation of Madurai which was to use the land after the same was acquired. There is no infirmity in acquiring this land. The objections raised by the petitioner had been duly considered and the remarks of the Corporation had also been duly communicated to the petitioner. The petitioner had at no time disputed that the purpose for which the land is acquired was not a public purpose. The land is situated in close proximity to the bus stand and market. The Land Acquisition Officer had also considered this aspect and submitted his report. Publication of the notification u/s 6 based on that report and after considering the purpose for which the land was to be acquired is in no way illegal.

13. The petitioner has claimed in the petition that she had obtained licence to construct a building on the land from the concerned authorities. The respondents have stated that such licence had been issued by the sanctioning authority who at the time of sanction of the licence was not aware of the fact that the land had been notified for acquisition and that it was subsequently cancelled in the year 1982 itself.

14. I do not see any merit in this writ petition and the same is dismissed. No costs.