
(2014) 09 MAD CK 0342

In the Madras High Court

Case No : Writ Petition No. 8120 of 2013 and M.P. No. 1 of 2013

P. Subramani

APPELLANT

Vs

The District Collector

RESPONDENT

Date of Decision : 17-09-2014

Acts Referred:

Land Acquisition Act, 1894 — Section 4(1)

Citation : (2014) 09 MAD CK 0342

Hon'ble Judges : B. Rajendran, J

Bench : Single Bench

Judgement

B. Rajendran, J.—The prayer in the writ petition is to quash the order dated 15.02.2013 passed by the first respondent in Na. Ka. No. 11241/2010/Ka2 and to consequently direct the respondents to change the revenue records by making necessary entry by including the petitioner's name and by deleting the classification as Natham land in S.F. No. 33/1 (Old Survey No. 36-A) to an extent of 1.36 acres of land (0.50.0 hectares) in Dhalavaipattinam Village, Dharapuram Taluk.

2. The case of the petitioner is that he purchased an agricultural land comprised in S.F. No. 33/1 (Old Survey No. 36-A) to an extent of 1.36 acres of land (0.50.0 hectares) in Dhalavaipattinam Village, Dharapuram Taluk. According to the petitioner, the said land was sought to be acquired by the Government by issuing Notification under Section 4(1) of the Land Acquisition Act, 1894 for the welfare of the Adi Dravidas. Challenging the said Notification, the petitioner preferred writ petition in W.P. No. 22047 of 1993 before this Court and the same was dismissed. Aggrieved over the same, the petitioner filed writ appeal in W.A. No. 976 of 1997, which was allowed by this Court vide order dated 02.12.1997 setting aside the very Section 4(1) Notification. Thereafter, the petitioner made a representation to the authorities in the year 2005 itself to effect mutation in the revenue records; the same was not considered by the authorities. Once again, the petitioner submitted a representation on 18.02.2011 and that was also not

considered. According to the petitioner, in view of the above, the petitioner could not even pay the kist for the past 14 years. The further case of the petitioner is that inspite of quashing of the Section 4(1) Notification, the representation of the petitioner was not considered. Hence, the petitioner preferred yet another writ petition during the year 2011 and this Court directed the authorities to consider the same and pass orders within a period of three months from the date of receipt of a copy of the said order. Pursuant to the direction issued by this Court dated 09.09.2011 in W.P. No. 19698 of 2011, the present impugned order has been passed by the first respondent rejecting the representation made by the petitioner for effecting mutation in the revenue records only on the ground that in the writ appeal filed by the petitioner, this Court while setting aside the Section 4(1) Notification, has observed that it is open to the State to acquire the lands in accordance with law. Hence, they could not consider the case of the petitioner.

3. Learned counsel appearing for the petitioner would submit that till date no further steps have been taken by the State to cause any fresh Section 4(1) Notification for acquiring the land. When that be so, the impugned order rejecting the representation of the petitioner by quoting a few lines from the order passed by this Court in W.A. No. 976 of 1997 is per se illegal. Accordingly, she would pray for setting aside the same and consequently to direct the respondents to effect mutation in the revenue records.

4. Learned Additional Government Pleader appearing on behalf of the respondents, by relying upon the counter affidavit filed, would submit that this Court had given liberty to the Government to utilize the lands for some other purpose. Hence, the impugned order passed is correct. Accordingly, he would pray for the dismissal of the writ petition.

5. Heard both sides and perused the records.

6. A cursory reading of the impugned order shows that the same has not been passed in accordance with law. In the order passed by this Court in W.A. No. 976 of 1997 dated 02.12.1997, the very Section 4(1) Notification itself was quashed and it only says that if at all, the Government wants to acquire the lands, they can initiate fresh Section 4(1) Notification and according to the petitioner, so far no steps have been taken by the authorities to acquire the land. Even though a meek attempt was made by the learned Additional Government Pleader that in the impugned order there is a reference of even an award having been passed, the fact remains that Section 4(1) Notification itself was quashed as early as 1997 giving only liberty to the State to acquire the land by issuing fresh 4(1) Notification. Since for the past 17 years no action has been taken by the respondents, automatically the petitioner is entitled to necessary changes in the revenue records.

7. For all the above reasons, the impugned order is liable to be set aside and accordingly, the same is set aside. The matter is remitted back to the authority

concerned to consider afresh and to pass appropriate orders, in accordance with the judgment of this Court dated 02.12.1997 passed in W.A. No. 976 of 1997. Such exercise shall be completed by the respondents within a period of three months from the date of receipt of a copy of this order.

8. With the above direction, this writ petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.