

(2010) 07 MAD CK 0128

In the Madras High Court

Case No : Writ Petition No. 5543 of 2003

P. Valliammal

APPELLANT

Vs

The District Collector and The Special Tahsildar, Adi Dravidar
Welfare Department

RESPONDENT

Date of Decision : 21-07-2010

Acts Referred:

Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 — Section
12(2), 4, 4(1), 4(2), 4(3)

Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Rules, 1979 — Rule 3, 4(3)

Citation : (2010) 07 MAD CK 0128

Hon'ble Judges : T.S. Sivagnanam, J

Bench : Single Bench

**Advocate : C. Prakasam, for the Appellant; M. Sneha, G.A. for RR1-2, for the
Respondent**

Final Decision : Dismissed

Judgement

T.S. Sivagnanam, J.—The prayer in the writ petition is for issuance of writ of Certiorari to quash the proceedings dated 25.01.1996 initiated

u/s 4(1) of the Tamilnadu Acquisition of Lands for Harijans Welfare Scheme Act, 1978 (hereinafter referred to "as the Act").

2. The petitioner is the wife of one Mr. Ponnusamy, who was a Ex-Service man and the petitioner's husband was the owner of an extent of 0.32.0

hectras of agricultural land in Survey No. 399 in Nanjukondapuram Village in Vellore Taluk. The said lands were subject matter of land acquisition

proceedings. The petitioner's husband during 1999, received a notice fixing compensation for the land. This notice was challenged by the

petitioner's husband by filing W.P. No. 14852/1999 and the same was dismissed by this Court on 01.11.1999, stating that the petitioner's

husband did not challenge the land acquisition proceedings, but had only the challenged the award notice, therefore liberty was given to seek for

enhanced compensation. After the demise of the petitioner's husband on 30.09.1999, the petitioner has come forward with this writ petition,

challenging the land acquisition proceedings contending that the proceedings, u/s 4(1) of the Act is in a printed format and therefore, there was no

application of mind by the authorities. Further, the respondents failed to follow Section 4(3)(b) of the Act as the District Collector did not pass any

orders and the District Collector did not follow the procedure under Rule 3 of the Tamilnadu Acquisition of Lands for Harijans Welfare Scheme

Act, 1979. The petitioner has stated that as she was not well-versed with legal proceedings, she could not approach this Court earlier.

3. The second respondent has filed a counter affidavit submitting that since no Government Poramboke lands were available for issuing house site

pattas to Arunthathiyars of Nanjukondapuram Village, the lands in survey No. 399, which were classified as dry land were selected. Notice in

Form No. I was issued to the land owner by proceedings dated 18.01.1996, as required u/s 4(2) of the Act, with a direction to submit objections

in writing within 15 days and also to appear for enquiry on 01.02.1996. The land owner did not submit the objections and did not turn up for the

enquiry and thereafter, report was submitted to the first respondent in proceedings dated 23.09.1996. After considering the report, the Collector

passed orders on 11.03.1997 and notification under 4(1) was published in the District Gazette dated 24.01.1997 and the contents of the

notification was published in the locality on 27.01.1997. After getting the sales statistics of the lands in the area a notice in Form No. 3 u/s 5(1) of

the Act was issued to the land owner with direction to appear for award enquiry on 26.03.1997. Though, notice was received the land owner and

the writ petitioner failed to attend the enquiry and award was passed on 26.03.1997 and on 01.04.1998, the notice u/s 12(2) of the Act was

issued and received by the writ petitioner on 11.04.1998. Thereafter, free house site pattas have been issued to 16 house-less arunthathiyars, after

approval of the lay out plan and that stage, the writ petitioner's husband filed W.P. No. 14852/1999, which was dismissed giving liberty to the

petitioner to move for enhanced compensation, at this stage, the present writ petition is not maintainable. It is further submitted that the provisions

of the statute have been scrupulously followed and there is no violation of procedure as contended by the petitioner and the writ petition is devoid

of merits. It is further submitted that after the free house sites was issued to the house-less arunthathiyars, after taking possession of the land, the

writ petitioner has encroached into the land, after obtaining interim orders from this Court on 06.03.2003.

4. I have heard the learned Counsel appearing for the petitioner as well as the learned Government Advocate for the respondents

5. I have called for the original file and also gone through the same. The challenge to the acquisition proceedings is on the grounds, that the notice in

Form No. 2 is in printed format, which reveals non-application of mind. In the files relating to the acquisition, which was produced by the learned

Government Advocate, the Form No. 2, notice finds place in page 27 of the file. It is to be noted that the Form No. 2 is a statutory form under

Rule 3 of the Rules and it is required to be as given in the rules. A perusal of the notice reveals that the format has been verbatim taken from the

rules and therefore, no error could be attributed to the respondents for adopting such format. In the schedule to the Form-2, notice the name of the

Village, Taluk and District and the description of the property along with its boundaries and extent have been clearly set out. Therefore, merely

because a printed format has been adopted by the respondent it cannot be stated that there is no application of mind since all the relevant/required

details are mentioned. Therefore, the first ground raised by the petitioner cannot be countenanced.

6. The second ground raised by the petitioner is that the procedure under Rule 4(3)(b) of the Act r/w Rule 3 has not been followed. Section 4(3)

(b) states that when an officer authorized by the District Collector has called upon the owner or other person to show cause under Sub-section 2

of the Section 4, such officer shall make a report containing his recommendations and after considering such report, the District Collector may pass

an order. Such report u/s 4(3)(b) has been given by the Tahsildar, Vellore to the District Collector on 27.01.1996 and the report finds place in

pages 39 to 53 of the file. Thus, it is clear that there has been compliance of Section 4(3), therefore, the second ground raised by the petitioner is

also devoid of merits.

7. It is seen from the files, the Collector has passed orders on 11.03.1997 and the same has also been published in the District Gazette. Therefore,

all the grounds raised by the petitioner does not merit acceptance. One other factor, which has to be taken note of is that the petitioner's husband

had earlier filed a writ petition and said writ petition was dismissed giving liberty to the petitioner's husband to seek for enhanced compensation. In

such circumstances, the petitioner herein cannot now start a second round of litigation in the same matter. It is also seen from the files that the

beneficiaries have also been identified and specific extent has been handed over. The averment in the counter affidavit is that the petitioner has

encroached into the land after obtaining interim orders from this Court, which cannot be countenanced.

8. It is settled legal position that the writ petition cannot be filed after the award has been passed. Admittedly, the petitioner's husband has filed the

earlier writ petition, after the award was passed, which was dismissed and giving liberty to seek for enhanced compensation. The Hon'ble Division

Bench of this Court in Executive Engineer and Administrative Officer, Coimbatore Housing Unit, Tamil Nadu Housing Board Vs. Girija

Janarthanan and Others, , after referring to various decisions of the Hon'ble Supreme Court has held, writ petition filed challenging the notification

for acquisition of land after possession having been taken is not maintainable and even if a defect has crept in the issuance of 4(1) notification, the

Court shall not entertain the challenge to the land acquisition proceedings after the award is passed and possession is taken.

9. Hence, for all the above reasons, there are no grounds to interfere in the land acquisition proceedings. The writ petition is devoid of merits and it

is dismissed. However, there shall be no order as to costs.