
(1996) 01 MAD CK 0084
In the Madras High Court

R. Loganathan and Others

APPELLANT

Vs

State of Tamil Nadu and Others

RESPONDENT

Date of Decision : 24-01-1996

Acts Referred:

Land Acquisition Act, 1894 — Section 5A

Citation : (1996) 1 MLJ 617

Hon'ble Judges : Srinivasan, J

Bench : Division Bench

Judgement

Srinivasan, J.—W.P. Nos. 15320 of 1993 and 15321 of 1993:

The first objection raised before us is that Rule 3(b) of the Rules framed under the Land Acquisition Act, has not been complied with. According to the petitioners, they sent their objections in the enquiry u/s 5-A of the Act and remarks were called for from the requisitioning body. After the remarks were received by the Land Acquisition Officer, the petitioners were called upon by a notice dated 1.7.1991 to appear for further enquiry on 30.7.1991. In the said notice, the Land Acquisition Officer, has stated that the Tamil Nadu Housing Board has remarked that the objections raised by the petitioners, should be rejected. Thereafter, the petitioners had appeared before the Land Acquisition Officer on 30.7.1991 and presented a statement of objection. Taking such objections into consideration, the Land Acquisition Officer had proceeded to send a report u/s 5-A. The Land Acquisition Officer has stated in his report that the objections filed by the petitioners on 30.7.1991 were after taking into consideration the remarks made by the Requisitioning body.

2. What is contended before us is though a notice was given on 1.7.1991, requiring the petitioners to appear on 30.7.1991 for further enquiry after the receipt of remarks from the Requisitioning Body, a copy of the remarks was not forwarded to the petitioners and even after 30.7.1991, they were not furnished with such a copy. We do not find any substance in this contention. If the petitioners were not furnished with such a copy, they ought to have raised the

objection soon after 1.7.1991 when they received the notice on the date of the enquiry on 30.7.1991. In the objections filed by them on 30.7.1991, there is no mention by the petitioners that they had not been furnished with a copy of the remarks of the Requisitioning Body.

3. Even assuming that the petitioner's version is true, the only objection raised by the petitioners for the acquisition is that the lands sought to be acquired are agricultural lands and the petitioners are depending only on those lands and they have no other lands. It is also stated that they are small farmers and the lands should not be acquired. This objection cannot affect the validity of the acquisition proceedings. The fact that the owner of the land is a small farmer and that the land is an agricultural land have to be taken into account but there is no rule that such lands ought to be excluded automatically from the acquisition proceedings. In the circumstances, we do not find any merit in the objection as to the validity of the acquisition proceedings.

4. The second objection is that the notification u/s 4(1) of the Act has stated the public purpose to be "formation of Rural Housing Scheme, Kelakattalai" by the Tamil Nadu Housing Board, while the declaration u/s 6 of the Act has mentioned the public purpose to be "Implementation of Pallavaram Neighbourhood Scheme". It is vehemently argued that there is a material difference between the notification u/s 4(1) of the Act and the declaration u/s 6 of the Act as regards the public purpose and therefore, the proceedings are void. We are unable to accept this contention for the following reasons.

5. What is stated in the notification u/s 4(1) of the Act is "the formation of a new Housing Scheme, Kelakattalai. It only means that in Kelakattalai Village a new Housing Scheme which is to be formed thereafter, is to be implemented and it is the public purpose. The name of the village is mentioned because all the lands sought to be acquired are in Kelakattalai Village. But that does not mean that the name of the scheme is Kelakattalai Scheme or new scheme, Kelakattalai. But the records produced by the Government Pleader clearly show that even at that time, what was decided to be framed was "Pallavaram Neighbourhood Scheme". All the subsequent documents after the issue of the notification in the Gazette u/s 4(1) mention "Pallavaram Neighbourhood Scheme". In fact, the publication in the newspapers of the notification u/s 4(1) itself mentions it only as "Pallavaram Neighbourhood Scheme". The notice issued to the parties calling upon them to appear for an enquiry u/s 5-A and put forward their objections, if any, refer only to Pallavaram Neighbourhood Scheme. Realising that there was a mistake in the notification u/s 4(1) in not mentioning the name of the scheme as "Pallavaram Neighbourhood Scheme", the Government issued an errata to the said Notification in letter No. 11182/A-2/91-2 Housing and Urban Development Department, dated 5th April, 1991 and published the same in the Gazette dated 24.4.1991. Hence, the objection that there is a material difference between the notification u/s 4(1) and the declaration u/s 6, is without any substance.

6. The next contention of learned Counsel for the petitioners is that the

notification u/s 4(1) is very vague and therefore, it is void. In this connection, our attention is drawn to the judgment of the Supreme Court in *State of Tamil Nadu v. L. Krishnar*, (1996) 1 SCC 250 . In para 35 of the judgment, the following observations are made:

The next question is whether the public purpose stated in the three notifications concerned is vague. It must be remembered that what is vague is a question of fact to be decided in each case having regard to the acts and circumstances of that case. By saying that the public purpose in the said notification is vague what the respondents really mean is not that it is not a public purpose but that since the public purpose is expressed in vague terms and is not particularised with specificity, they are not in a position to make an effective representation against the proposed acquisition.

The court took care to mention in the next few paragraphs that in the case of acquisition of a large area, none can insist that the Government should specify the public purpose with reference to each of the lands sought to be acquired. In this case also, the area covered by the proposed acquisition is of a large extent of 97 acres of land. The name of the Scheme is clearly mentioned as Pallavaram Neighbourhood Scheme and therefore, there is no question of any vagueness in the notification on the facts of this case. We therefore hold that the notification is not vague or void.

7. The last contention urged by learned Counsel is that several lands in the vicinity have been left out and there is thus discrimination by the authorities while exercising their functions under the provisions of the Land Acquisition Act. No particulars are furnished in this regard to prove that there has been such a discrimination, which would vitiate the proceedings in acquisition. Even if some lands are left out in the vicinity, that does not mean that there is a discrimination. It is not necessary for the Government to acquire every inch of the land in the vicinity. It is sufficient if acquisition is made of the lands, which are necessary for the purpose of the scheme. Hence that contention will also fail.

8. Consequently, W.P. Nos. 15320 and 15321 of 1993 have to fail and the same are dismissed. No costs.

9. W.P. No. 16950 of 1993: The petitioner in this case adopts the contentions raised in W.P. No. 15320 of 1993. They are rejected for the same reason given for dismissing W.P. No. 15320 of 1993.

10. Apart from the above contentions, the petitioner urges that she had no notice of any of the proceedings at any stage. Admittedly, the petitioner purchased the property only, on 20.11.1991 long after the notification u/s 4(1) of the Act and two months after the declaration u/s 6. The petitioner has no locus standi to question the acquisition proceedings vide: *K.R. Nagarajan v. Special Deputy Commissioner (L.A.)*, (1995) 2 L.W. 166.

11. Hence, this writ petition is dismissed. No costs.

12. W.P. No. 20486 of 1993: In this case also, the petitioner purchased the lands only in 1993, long after the declaration u/s 6 of the Act. Hence, the petitioner has no locus standi. All his submissions are rejected and the writ petition is dismissed. No costs.

13. W.P. Nos. 20571, 20885 and 20887 of 1993: The petitioners in these three petitions belong to the same family. The petitioner in W.P. No. 20571 of 1993 is the mother and the petitioners in the other two petitions are her daughter and son respectively. Apart from the contentions urged in W.P. No. 15320 of 1993, the petitioners herein contended that though they had purchased the lands long before the notification u/s 4(1) under sale deeds of the years 1988 and 1990, they had received no notice whatever. But it is seen from the files produced by the Government Pleader that these three persons have received notices sent by registered post even in November, 1990. The petitioners have deliberately suppressed the factum of receipt of notice by them and also omitted to mention as to how they came to know of the proceedings, if they had not received the notices earlier. They have also not mentioned as to when they came to know of the proceedings. Hence, the writ petitions are without any substance and they are dismissed. In view of the fact that they have come to court with false statements, they must be punished with costs. The petitioners shall pay the costs of the respondents (one set). Counsel fee Rs. 3,000 to be shared equally by counsel for respondents 1 and 2 and the counsel for the 3rd respondent.

14. W.P. No. 20573 of 1993: Apart from the contentions raised in W.P. No. 15320 of 1993, the petitioner herein adds that he was serving in the Army and was never residing in Madras and he was not served with the notice in the proceedings. This contention is falsified by the records produced by the Government Pleader. It is seen from the records that the petitioner's sister received notice at his residence at Madras and she appeared in the enquiry u/s 5-A. She has produced a letter of authorisation from the petitioner authorising her to appear on his behalf. He has also produced the statement of objections signed by the petitioner himself against the acquisition. He has also produced the relevant documents, viz., patta in favour of the petitioner and the sale deed dated 4.2.1976 and a copy of the sale deed, under which the petitioner purchased the land. Thus, the petitioner has come to court with a false case that he was not aware of the proceedings, as he was serving in the Army outside Madras. It is seen from the address given by him in the letter of authorisation that he was functioning as Deputy General Manager, Cordite Factory, Aravangadu, The Nilgris at that time.

15. The petitioner having come to Court with a false case, deserves to be prosecuted, particularly because he was working in the Army and he is expected to maintain strict honesty. In view of the fact that he has made a false statement in the affidavit, he must be punished with an order for costs. Hence, the writ petition is dismissed with costs. Counsel's fee Rs. 3,000 to be shared equally by the counsel for respondents 1 and 2 and the counsel for the 3rd respondent.

16. W.P. No. 20937 of 1993: Apart from the objections raised in W.P. No. 15320 of 1993, the petitioner adds that he was not served with any notice, though he purchased the land of an extent of 2140 sq.ft. in S. No. 297/4-A1-A1. The affidavit filed in support of the writ petition does not give any particulars as to when the petitioner purchased the land. It is not known whether the purchase was before or after the notification u/s 4(1) of the Act. In the absence of such particulars, this Court cannot accept the contention urged by the petitioner. The Government Pleader has produced the file, which shows that a notice was served on the petitioner in the enquiry u/s 5-A of the Act. Thus, the petitioner was aware of the proceedings and there is no merit in this contention. Hence, this writ petition is also dismissed. No costs.