
(1995) 10 MAD CK 0016
In the Madras High Court

R. Venkatachalapathy and Another	Vs	APPELLANT
The State of Tamil Nadu and Another		RESPONDENT

Date of Decision : 12-10-1995

Acts Referred:

Constitution of India, 1950 — Article 14, 19, 300A
Land Acquisition Act, 1894 — Section 4(l), 6

Citation : (1995) 2 LW 827 : (1995) 2 MLJ 652 : (1995) WritLR 789

Hon'ble Judges : AR. Lakshmanan, J

Bench : Division Bench

Judgement

AR. Lakshmanan, J.—Admit. Since the matter is directly covered by the recent decision of the Honourable Supreme Court reported in

State of Tamil Nadu and Others Vs. Ananthi Ammal and Others, , the main writ petitions themselves are taken up for-final hearing by consent of

both parties. Heard Mr.S.Natarajan, learned Counsel for the petitioners and Mr.R.Sengottuvelan, learned Government Advocate.

2. Both the writ petitions have been filed challenging the land acquisition proceedings and the award made in Proceedings No. 2/95-96, dated

28.7.1995 on the file of the second respondent and to quash the same.

3. Writ Petition No. 13771 of 1995 has been filed to quash the G.O. (3D) No. 343 (Adi Dravidar and Tribal Welfare), dated 19.5.1992 and Writ

Petition No. 13772 of 1995 has been filed to quash the G.O. (3D) No. 343, (Adi Dravidar and Tribal Welfare), dated 19.5.1992, notifications

issued u/s 4(l) of the Land Acquisition Act, 1894 and published in Part II, Section 2 (Supplement) of the Tamil Nadu Government Gazette, dated

10.6.1992 and in G.O. (3D) No. 546 (Adi Dravidar and Tribal) Welfare, dated 30.7.1993, a declaration u/s 6 of the Land Acquisition Act, 1894

and published in Part II, Section 2, of the Tamil Nadu Government Gazette, dated 30.7.1993 and the award made in the proceedings, dated

28.7.1995 referred to supra.

4. The petitioner in Writ Petition No. 13771 of 1995 is the owner of 1.07.5 hectares at Puranasingupalayam village of Vadhanur hamlet,

Villupuram Taluk, V.R.P. District, Villupuram Taluk. The lands are put to agricultural use and there are coconut trees and teak plantations in these

lands, as can be seen from the revenue records. The petitioner in Writ Petition No. 13772 of 1995 is the owner of land situate in Survey No.

247/E2 of an extent of 0.44.0 hectares at Puranasingupalayam Village, hamlet of Vadhanur, Villupuram Taluk, V.R.P. District, as can be seen

from the revenue records.

5. The first respondent commenced land acquisition proceedings in respect of the said lands belonging to both the petitioners and issued

notifications u/s 4(1) of the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter referred to as "the Act") on 19.5.1992 and published

the same in the Government Gazette on 10.6.1992. The respondents also issued Section 6 declaration on 30.7.1993. The petitioners lodged their

objections dated 18.9.1992 to the Authorities. According to the petitioners, the respondents have failed to forward those objections to the

requisitioning Department, as required under Rule 4(b) of the New Rules, 1991 framed u/s 55(I) of the Act, requiring the copies of objections be

forwarded to the requisitioning Department and communication of remarks therein to the land-owners and thereafter to conduct the Section 5-A

enquiry. The second respondent rejected the objections raised solely on the ground that the acquisition was for a public purpose and proceeded

with the enquiry. Thereupon, Section 6 declaration was issued on 30.7.1993. A contention was also raised that the lands sought to be acquired

were coconut thopes with teak plantations as well. Further, one Mr. Varadarajulu Reddiar has offered his lands and consented for acquisition, but

his offer was rejected solely on the ground that the said offer was made only in July, 1995 and the lands were wet lands. However, the second

respondent passed an award on 28.7.1995 fixing the compensation at Rs. 2,92,347 to the petitioner in Writ Petition No. 13771 of 1995 and also

passed an award on the same date, fixing the compensation in the other writ

petition, viz., W.P. No. 13772 of 1995.

6. Aggrieved by the awards made by the second respondent, the petitioners have come before this Court, challenging the acquisition proceedings

and the consequential awards under Article 226 of the Constitution of India.

7. Though several contentions have been raised by the writ petitioners, the same need not be considered at this stage, in view of the dictum laid

down by the Honourable Supreme Court of India and followed by this Court. The reason for not considering the contentions raised are as under:

Act 31 of 1978 was enacted to give effect to the policy of the State towards securing the principles laid down in Part IV and, in particular Article

46 of the Constitution of India. The said Act was enacted to provide for acquisition of land for Harijan Welfare Schemes. The validity of the Act

31 of 1978 was challenged before this Court. A Division Bench of this Court struck down the said Act 31 of 1978 as ultra vires the Constitution.

This Court came to the conclusion that the Act did not enjoy the protection of Article 31-C or 31-A and that it was violative of Arts. 14, 19 and

300-A of the Constitution of India. The State of Tamil Nadu preferred an appeal by ""special leave" against the judgment of this Court, dated

9.9.1981, whereby the Act was struck down as ultra vires the Constitution. It was contended on behalf of the State of Tamil Nadu that the said

Act was not violative of Articles 14, 19 or 300-A of the Constitution and in any event, it was attracted by the provisions of Article 31-A of the

Constitution of India. The Supreme Court has observed as under: ""Section 20 of the said Act states that the provisions of the Land Acquisition

Act, save as expressly provided in the said Act, shall cease to apply to any land which is required for the purpose specified in Section 4(I) and

such land shall be acquired only in accordance with the provisions of the said Act. Consequently; Section 22 makes the provisions of the said Act

applicable also to cases in which proceedings have been started before the commencement of the said Act under the Land Acquisition Act for the

purposes of Harijan Welfare Schemes, provided that no awards have been made under the Land Acquisition Act. We see no unreasonableness in

this provision, particularly having regard to the terms of Section 20. We must, however, take into account the fact that the judgment under appeal

striking down the said Act was delivered as far back as September, 1981, and no

stay thereof was obtained from this Court. It is likely therefore, that in cases where proceedings under the Land Acquisition Act had already been started to acquire lands for Harijan Welfare Schemes, they might have been revived and completed in the interregnum. We, therefore, make it clear that the provisions of Section 22 shall have no effect in such cases where awards have been made.

In the result, the Supreme Court observed that the provisions of the Act, except for the provision as to instalments in Section 11, is not violative of

the provisions of Article 14 of the Constitution of India and therefore the Supreme Court considered it unnecessary the contention whether or not

the said Act has the protection of Article 31-C of the Constitution of India. The Supreme Court allowed the appeal in part and set aside the

judgment and order under appeal, except for the provisions of Section 11(1) of the said Act insofar as they provide for payment for compensation

amount in instalments. The Apex Court also has held that the Act is ultra vires of the Constitution and that Section 11(1) of the Act is valid only to

that extent.

8. A Division Bench of this Court, consisting of the Honourable Chief Justice and Raju, J. in Writ Appeal No. 1987 of 1993 dated 6th September,

1995 has also quashed the award which was passed subsequent to the date of the Supreme Court judgment dated 22.11.1994. Consequently, the

Division Bench has observed that the acquisition proceedings cannot at all be continued under the provisions of the Central Land Acquisition Act.

The Division Bench has also reserved the liberty to the State of Tamil Nadu to proceed with the acquisition proceedings under the provisions of the

Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978, while quashing the notifications.

9. Following the Supreme Court decision in State of Tamil Nadu and Others Vs. Ananthi Ammal and Others, , another Division Bench of this

Court has also passed an order in C.N. Ramamurthy v. The Government of Tamil Nadu and two others, Writ Appeal No. 114 of 1995 dated

6.3.1995, Shivaraj Patil, J. while disposing of similar writ petitions by his order, dated 7.7.1995 in W.P.Nos. 3129 of 1985, etc., has allowed the

writ petitions following the Supreme Court decision in State of Tamil Nadu v. Ananthi Ammal and a Division Bench Judgment of this Court in

W.A. No. 114 of 1995 dated 6.3.1995, and quashed the impugned notifications. Learned single Judge also reserved the liberty to the respondent-

State, if so desired to acquire the lands under the provisions of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (Act 31 of 1978).

10. In this case, the awards were passed on 28.7.1995, i.e., after the Supreme Court Judgment dated 22.11.1994. Hence, in the light of the

Supreme Court decision, the impugned notifications issued under the Central Act are liable to be quashed, including the awards passed in both the

cases, fixing the compensation. Section 20 of the Tamil Nadu Act 31 of 1978 reads thus:

Section 20, Land Acquisition Act not to apply: Save as otherwise provided in this Act, the provisions of the Land Acquisition Act, 1894 (Central

Act 1 of 1894), shall cease to apply to any land which is required for purpose specified in Sub-section (1) of Section 4 and any such land shall be

acquired by the Government only in accordance with the provisions of this Act.

As already seen the Supreme Court has upheld the validity of this Act except insofar as they provide for payment of compensation in instalments,

the said Act being intra vires the Constitution. Therefore, the State is precluded from acquiring the land for Harijan Welfare Scheme under the Act.

Hence, I am of the opinion that the entire proceedings as initiated under the Central Act are bad. Further, as per the judgment in SLP (C) No.

16989 of 1991 the initiation of the land acquisition proceedings under the Act are without authority of law and the respondents, in my opinion also

are not entitled to continue the proceedings under the Land Acquisition Act, having regard to the provisions of Section 20 of the Act 31 of 1978.

Inasmuch as the Supreme Court has upheld the validity of the Act 31 of 1978, the proceedings for acquisition of land for Harijan Welfare could be

taken only under the said Act. Inasmuch as in the instant case, the proceedings have been taken under the Land Acquisition Act, 1894, the same is

without jurisdiction or authority of law. In the instant case, as the awards have been passed on 18.7.1995, which was subsequent to the decision of

the Supreme Court, the entire proceedings are bad and the same are liable to be struck down.

11. In the result, the notifications in G.O. (3D) No. 343 (Adi Dravidar and Tribal

Welfare), dated 19.5.1992 issued u/s 4(1) of the Land

Acquisition Act and published in Part II, Section 2 (Supplement) of the Tamil Nadu Government Gazette, dated 10.6.1992 and G.O. (3D) No.

546, (Adi Dravidar and Tribal Welfare), dated 30.7.1995, a declaration u/s 6 of the Act and published in Part II, Section 2 of the Tamil Nadu

Government Gazette, dated 30.7.1993 and the awards made in proceedings No. 2/95-96, dated 28.7.1995 on the file of the second respondent

are quashed. The writ petitions shall stand allowed. However, there will be no orders as to costs. In view of the final orders passed in the main writ

petitions themselves by this Court to-day, both the WritMiscellaneous Petition Nos.22066 and 22067 of 1995 are also dismissed. However, I

reserve the liberty to the State of Tamil Nadu to proceed with the acquisition proceedings under the provisions of the Tamil Nadu Acquisition of

Land for Harijan Welfare Schemes Act, 1978 (Act 31 of 1978).