
(2001) 08 MAD CK 0128
In the Madras High Court

S. Gurusamy

APPELLANT

Vs

Government of Tamil Nadu and Others

RESPONDENT

Date of Decision : 01-08-2001

Acts Referred:

Land Acquisition Act, 1894 — Section 4(1)

Citation : (2001) 3 MLJ 688

Hon'ble Judges : P.D. Dinakaran, J

Bench : Division Bench

Judgement

P.D. Dinakaran, J.—This petition was admittedly serving the Indian Army as Junior Commissioner Officer, Regiment of Artillery at Salem and was transferred and posted at north eastern sector. The petitioner purchased 24 cents of land in R.S.No. 237/1A1, in Vadagudi Village, Enanallur Division, Kumbakonam Taluk, Thanjavur District from one Visalakshi on 26.4.1993. However, the said land was sought to be acquired for the purpose of providing house sites, to Adi Dravidars and accordingly a notification and the Section 4(1) of the Land Acquisition Act (hereinafter referred to as the "Act") was issued under G.O.(3-D). No. 562, Adi-Dravidar and tribal Welfare, dated 30.7.1993, In the said notification dated 30.7.1993, the name of the petitioner was not mentioned, but instead the name of the vendor Visalakshi was published. The pattawas transferred from the name of the vendor, Visalakshi to the name of the petitioner on 29.10.1993. Even though an enquiry contemplated u/s 5(A) of the Act was held on 19.11.1993, on which date the vendor, Visalakshi appeared before the second respondent and brought to his notice that the name of the petitioner was already entered into the revenue records and the same was also recorded by the second respondent in his report dated 19.11.1993 passed u/s 5 A of the Act, the respondent, had proceeded with the impugned land acquisition proceedings without giving a further notice to the petitioner, presumably finding that the publication of notice in paper and locality for the enquiry held u/s 5A of the Act on 19.11.1993 was sufficient, and finally passed a declaration u/s 6 of the Act in G.O.Ms.No. 3D/160, dated 8.3.1994, and also proceeded with the award enquiry.

2. The above facts are not disputed by the respondents.

3. In view of the above admitted fact that the petitioner was not given any notice for the enquiry contemplated u/s 5A of the Act, even though it was brought to the notice of the second respondent that the impugned land was purchased by the petitioner on 26.4.1993, that is much earlier to the issue of notice and the Section 4(1) of the Act on 30.7.1993 and that the patta had been transferred in the name of the petitioner with effect from 29.10.1993, at the time of the enquiry in u/s 5A of the Act held on 19.11.1993, I am satisfied that the impugned acquisition is in violation of Section 5A of the Act and therefore, the consequential declaration and the Section 6 of the Act dated 8.3.1994 is liable to be quashed, applying the principle laid down by the Full Bench of this Court in Thanikavelu P. C. v. The Special Deputy Collector for Land Acquisition, Madras (1989) 1 M.L.J. 222 : (1989) 1 WL.R. 89 that the persons whose names are not noted in the revenue records as "persons interested" but about whom the officer conducting enquiry is informed of the interest possessed by such person, the acquisition authority has an obligation to serve individual notices to each member.

4. In the result, this writ petition is allowed as prayed for. No costs. Consequently, W.M.P. No. 21093 of 1994 and 7720 of 1997 are closed.