
(2001) 03 MAD CK 0024
In the Madras High Court
Case No : Writ Petition No. 13964 of 1994

S. Guruswamy

APPELLANT

Vs

The Government of Tamil Nadu

RESPONDENT

Date of Decision : 01-03-2001

Acts Referred:

Land Acquisition Act, 1894 — Section 4(1), 5A, 6

Citation : (2001) 03 MAD CK 0024

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

Bench : Single Bench

Advocate : E. Harikrishnan, for the Appellant; E. Raja, Spl. Govt. Pleader for R1 to R4, for the Respondent

Final Decision : Allowed

Judgement

P.D. Dinakaran, J.—The Petitioner was admittedly serving the Indian Army as Junior Commissioned 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. 237/1 Al. in Vadagudi Village,

Enanallur Vattam. Kumbakonam Taluk 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 u/s 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 patta was 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 5A 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

5A 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 GO. 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 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 u/s 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 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 u/s 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 reported in 1989 (1) WLR 89 that the

persons whose names are not entered 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.

In the result, this writ petition is allowed as prayed for No costs. Consequently. W.M.P. No. 21093 of 1994 and 7729 of 1997 are closed.