

(1998) 06 KL CK 0011
In the High Court Of Kerala
Case No : O.P. No. 10249 of 1998

Sreedevi Antharjanam and Others

APPELLANT

Vs

Guruvayur Devaswom and Others

RESPONDENT

Date of Decision : 12-06-1998

Acts Referred:

Land Acquisition Act, 1894 — Section 17(4), 5(A)(2), 5A, 5A(1)

Citation : (1998) 2 KLJ 229

Hon'ble Judges : K.S. Radhakrishnan, J

Bench : Single Bench

Advocate : K. Ramachandran and M. Krishnakumar, for the Appellant; K. Radhakrishnan and Govt. Pleader (N. Reghu Raj), for the Respondent

Final Decision : Dismissed

Judgement

K.S. Radhakrishnan, J.—Petitioners are aggrieved by the steps taken by the Guruvayoor Devaswom Committee in proceeding with the acquisition proceedings of the petitioners land comprised in survey No. 98/7 and 97/14 of Guruvayoor Village, Chavakkad Taluk. They have approached this court seeking a direction from this court not to acquire the land under the provisions of the Land Acquisition Act. They also challenge the Government Order No. R.T.29/97 dated 2-1-1997 constituting a special committee for reporting the affairs of Guruvayoor Devaswom to the Government in the matter of acquisition of lands. Petitioners are members of the Puzhakkara Chennas Mana, the family house of the "Thanthri" (High Priest) of Guruvayoor Sreekrishna Temple. They own and possess buildings and properties on the eastern and western side of the Temple Tank in survey No. 98/7 and 97/14 of Guruvayoor Village. In order to cater the needs of the public a lodging house by name Jayasree Buildings and a restaurant Dwaraka Hotel were constructed in the above properties. They cater the needs of the public and also the pilgrims. According to the petitioners they came to know a paper report dated 14-5-1998 where by steps have been taken by the District Collector and others so as to acquire the petitioners properties without giving

notice to them, or following any of the procedure contemplated under law. They have got a further case that no public purpose would be served by acquiring the land. They further submit that the respondents" are proceeding under a misapprehension that there was a direction by this court to acquire the land in and around the temple. It is also their complaint that the present acquisition proceedings are initiated on the report of the special committee constituted by Government order No. RT.29/97 dated 2-1-1997. The District Collector, Trichur is also a member of that committee. It was pointed out that as per S.5(A)(2) of the Land Acquisition Act every objection under Sec.5A(1) should be directed to the Collector who should make a report to the Government. It is their case, since Collector who is to hear these statutory objections, there is no justification in his continuing a member of the committee. They have also raised various contentions in the writ petition.

2. When the matter came up for hearing I heard the standing counsel appearing for Guruvayoor Devaswom Committee. It was pointed out that this court in O.P.2071/93 ordered that action should be taken to acquire lands within 100 metres from the outer wall of the temple for future development of the temple. In order to give effect to the said judgment as well as to give effect to the interest of the pilgrims and the temple the Devaswom took further steps in the matter. In fact Government vide G.O.RT. 29/97/RD dated 2-1-1997 constituted a committee consisting of the Chairman, Guruvayoor Devaswom Managing Committee, the Administrator, Guruvayoor Devaswom. The District Collector, Thrissur and Under Secretary to Government Revenue Department to study the various issues involved in the land acquisition of the Guruvayoor Devaswom in compliance with the direction of the High Court and to submit a report after hearing the affected parties. The committee therefore held many sittings and heard various persons and submitted an interim report. In the interim report committee recommended acquisition of lands within 25 metres from the outer wall of the temple as it was felt immediate development of the temple.

3. Government therefore examined the said report in detail and accorded sanction vide order dated 7-3-98 for acquisition of land within 25 metres of outer wall of the temple. District Collector was directed to take immediate steps for the acquisition of land and for taking advance possession of the land. Guruvayoor Devaswom Committee was also requested to take necessary steps to rehabilitate the owners of small holdings who have no other way to set up dwellings and have been living near the temple for a long period. It is seen that Guruvayoor Devaswom Committee sent necessary requisition for acquisition of land to District Collector and District Collector appointed the Special Tahsildar (Land Acquisition) General, Thrissur as Land Acquisition Officer. It is seen that a site inspection was conducted by Devaswom Authorities along with the Revenue Personnel on 25-5-1998. Mahazar and list of interested parties have been prepared by Special Revenue Inspector and Surveyor. At this juncture petitioners have now approached this court challenging the entire proceedings. Counsel for the Devaswom brought to my knowledge that similarly placed persons have

approached this court and the matter came up for consideration before Division Bench in O.P.2781/96, 3940/95, 81/94 etc. Division Bench vide judgment dated 16-3-1998 in O.P.2781/96 noted that the acquisition proceedings have been issued on the basis of the direction of this court in C.K. Rajan Vs. State of Kerala and Others, . Division Bench took the view that acquisition proceedings commenced by the Devaswom Board are not in any way vitiated. Division Bench also noted the interim report submitted by the Committee and also the order dated 7-3-1998 issued by the Government. While dismissing O.P. 2781/96 the Division Bench concluded that it is for the petitioner to approach the land acquisition authorities with the request to consider his objection at the Section 5A enquiry. I am of the view, various orders issued by the Division Bench and the fact that acquisition is for a public purpose I do not find any justification in granting any of the reliefs prayed for by the petitioner. Counsel for petitioner pointed out that there is no justification in invoking the urgency clause. It is his case in fact there is no urgency also. The Supreme Court in Rajasthan Housing Board and Others Vs. Shri Kishan and Others, held that the satisfaction under Sec.17(4) is a subjective one and that so long as there is material upon which Government could have formed the said satisfaction fairly, the court would not interfere nor would it examine the material as an appellate authority, it was also stated in State of Uttar Pradesh and another Vs. Keshav Prasad Singh, that the Government was entitled to exercise the power under Sec.17(4) invoking urgency clause and to dispense with inquiry under Sec.5A when the urgency was noticed on the facts available on record. The Supreme Court in Chameli Singh and others etc. Vs. State of U.P. and another, took the view that the opinion of urgency formed by the appropriate Government to take immediate possession is a subjective conclusion based on the material before it and it entitled to great weight unless it is vitiated by mala fides or colourable exercise of power. Under such circumstances I am of the view that petitioners are not entitled to get any of the reliefs from this court at this stage of proceedings. Consequently writ petition lacks merits and the same is dismissed.