

(2011) 04 MAD CK 0511

In the Madras High Court

Case No : Writ Petition No. 22387 of 2010 and M.P. No. 1 of 2010

V. Periannan

APPELLANT

Vs

The District Collector and The Special Tahsildar, ADW

RESPONDENT

Date of Decision : 11-04-2011

Acts Referred:

Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 — Section 4(1), 48B, 5

Citation : (2011) 04 MAD CK 0511

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : V. Raghavachari, for the Appellant; Devi, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru, J.—The Petitioner has come forward with this writ petition seeking for an order to restrain the Respondents from interfering with his peaceful possession and enjoyment of the property in Survey No. 252/4A measuring an extent of 1.46 in Soutahalli Village, Kaveripattinam, Krishnagiri District.

2. When the writ petition came up for hearing on 01.10.2010, this Court directed the learned Special Government Pleader to take notice and file counter. Pursuant to such direction, a counter was filed by the second Respondent dated 29.10.2010.

3. The Petitioner is the owner of the land in Survey No. 252/4A measuring an extent of 1.46 Soutahalli Village, Kaveripattinam, Krishnagiri District. The said land was acquired by the Respondents by invoking the provisions of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (Act 31 of 1978). After issuance of notification u/s 4(1) of the said Act, an award was passed in award No. 14/80-91 dated 19.12.1980. The Petitioner also, aggrieved by the meager compensation amount determined for his land, challenged the same by seeking reference to the competent Court and a reference was also

made in LAOP No. 11 of 1981 for enhancement of compensation. Ultimately, the LAOP No. 11 of 1981 was dismissed by the Reference Court. Thereafter, the Petitioner did not file any second appeal before this Court against the order passed by the reference Court. On the other hand, he has come forward to file the present writ petition contending that the Tamil Nadu Act 31 of 1978 was struck down by this Court as unconstitutional by a judgment dated 09.09.1981 and when once the validity of the Act was struck down, all further proceedings initiated will have to be treated as abandoned.

4. No doubt, it is true that the Division Bench of this Court held that the said Act is ultravires. However, the matter did not end with the decision of the Division Bench of this Court. It was taken on appeal by the State before the Supreme Court. The Supreme Court in the decision rendered in *State of Tamil Nadu and Others Vs. Ananthi Ammal and Others*, upheld the validity of the Act. While holding so, the Supreme Court held that if any proceedings pending appeal were initiated u/s 4(1) of the Central Act and award is passed, only those awards need not be re-opened. However, after the judgment was rendered, if proceedings are initiated for the purpose of framing a scheme of Harijan Welfare and it is still pending and no award was passed, then those proceedings will have to be initiated only under the State Act as it is a Special Law in so far as the State of Tamil Nadu is concerned. Nowhere, the Supreme Court held that the said Act is invalid. It is surprising that the Petitioner has raised such a ground in the writ petition especially when the Supreme Court upheld the constitutional validity of the enactment. Moreover, when once the acquisition proceedings are taken and an award is passed in terms of Section 5, the land will stand vested absolutely with the Government free from all encumbrances. It must also be noted that the Tamil Nadu Act 31 of 1978 was not a provision similar to that of Section 48B of the Central Act where re-conveyance is permitted.

5. Apart from these legal issues, in the counter, it was specifically contended by the second Respondent that possession of the land was already taken by the Government on 03.01.1991 after the award was passed on 19.12.1980 and the land was sub-divided into plots and house sites and house site pattas were also issued to the poor Adi Dravidar People of Soutahalli Village, Kaveripattinam, Krishnagiri District on 05.06.1981. According to the second Respondent, the process of land acquisition completed 29 years back and therefore, the present writ petition is not maintainable. Further, the Petitioner has filed O.S. No. 447 of 1986 before the District Munsif Court, Krishnagiri and the same was dismissed on 31.07.1991. As against the dismissal of the suit, A.S. No. 102 of 1994 was filed and the same was also dismissed. It is also stated that the Petitioner was fully given notice on all the stages of the proceedings. Since the Petitioner refused to receive the compensation on the ground that the value of the compensation was low, compensation amount was deposited with the jurisdictional reference Court. It is also stated that the Petitioner, after dismissal of the suit and appeal, got a certificate of priority from the Tahsildar stating that he is a priority candidate and entitled to all benefits of the Government scheme in furtherance to the

acquisition of land from him. It is also contended that it was the Petitioner, who has prevented the Dalits of the village from enjoying the fruits of the lands allotted to them and that therefore the writ petition is an abuse of process of the Court.

6. In the light of the above, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.