

(2006) 07 MAD CK 0119
In the Madras High Court
Case No : Writ Appeal No. 1514 of 2002

V. Veeraraghavan

APPELLANT

Vs

The District Collector, The Special Tahsildar (Land Acquisition)
Adi-Dravida Welfare Dept. and R. Govindarajan

RESPONDENT

Date of Decision : 06-07-2006

Acts Referred:

Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 — Section 4(1), 4(2), 5A

Citation : (2006) 07 MAD CK 0119

Hon'ble Judges : V. Dhanapalan, J;P. Sathasivam, J

Bench : Division Bench

Advocate : N. Varadarajan, for the Appellant; C. Thirumaran, Government Advocate for R-1 and R-2 and A. Dhiraviyanathan, for R-3, for the Respondent

Final Decision : Dismissed

Judgement

P. Sathasivam, J.—Aggrieved by the order of the learned single Judge, dated 07.02.2002, made in W.P. No. 14189 of 1996, the writ

petitioner has preferred the above Appeal.

2. According to the appellant/writ petitioner, he is the owner of an extent of 15.60 acres of land in S. No. 788 of Karamadai village,

Mettupalayam Taluk, Coimbatore District. The said lands originally belonged to his father Veerasamy Chettiar. On his death, those lands along

with other lands remained unpartitioned between himself and his brother Subramanian. By Judgment and decree in O.S. No. 865 of 1997 on the

file of the Subordinate Court, Coimbatore, dated 31.10.1988, he was declared as the owner of the property. He was in possession of the lands

sought to be acquired even before the suit was filed and continued to be in possession. The first respondent sought to acquire the above mentioned

lands for the purpose of providing house sites to Adi Dravidars. He issued notice u/s 4(1) of the Tamil Nadu Acquisition of Land for Harijan

Welfare Schemes Act, 1978. The notification was published in the District Gazette on 04.11.1995. In the said notification, it is wrongly stated that

the lands in S. No. 788/2 belong to Mettupalayam Gobald Motor Private Limited. No notice u/s 4(2) of the Act was issued. The respondent

straight away proceeded to pass an award on 26.2.1996 and fixed the compensation without any notice. Hence, he filed Writ Petition before this

Court.

3. The District Collector, Coimbatore / first respondent filed a counter affidavit, disputing the various averments made by the petitioner. According

to him, as per Revenue Records, the lands in S.F. No. 788/2 measuring an extent of 3.24.0 Hectares, ie., 8 acres, stands in the name of M/s.

Gobald Motor Service (P) Ltd., accordingly, notices in respect of Section 4(1) Notification and 5-A enquiry were issued to the land owner. There

is no procedural flaw involved in the proceedings. He further stated that, after complying with all the mandatory requirements, award was passed

on 26.2.1996. House site pattas were issued to 287 Adi Dravidars on 19.3.1996. Pointing out the above details, he prayed for dismissal of the

Writ Petition.

4. The learned Judge, by order dated 07.02.2002, taking note of the decision of the Supreme Court reported in Municipal Corporation of Greater

Bombay Vs. The Industrial Development Investment Co. Pvt Ltd., and others, and of the fact that possession was already taken and house sites

were handed over to the Adi Dravidars, declined to interfere and dismissed the Writ Petition, hence, the above Writ Appeal.

5. Heard Mr.N.Varadarajan, learned Counsel for the appellant; Mr.C.Thirumaran, learned Government Advocate for respondents-1 and 2; and

Mr.A.Dhiraviyanathan for R-3.

6. Mr. N. Varadharajan, learned Counsel appearing for the appellant/petitioner, by drawing our attention to the decree in O.S. No. 865 of 1987

on the file of Sub Court, Coimbatore, and the acquisition proceedings, contended that inasmuch the petitioner is the owner of the land in question,

in the absence of any notice, the entire acquisition proceedings are liable to be quashed.

7. On the other hand, learned Government Advocate and the counsel appearing for R-3/beneficiary submitted that the acquisition proceedings

were completed by complying with all the mandatory requirements and in view of the fact that, after taking possession, the lands were handed over

to the Adi Dravidars, there cannot be any interference at this stage.

8. In the light of the contention raised by both parties, we verified the records produced by the learned Government Advocate as well as the

specific stand taken by the District Collector in his counter affidavit filed before the learned single Judge. The revenue records show that the lands

in S.F. No. 788/2 measuring an extent of 3.24.0 hectares (8 acres) stand in the name of M/s. Gobald Motor Service (P) Limited. The records also

reveal that notice was sent to M/s.Gobald Motor Service (P) Limited in respect of Notification u/s 4(1) and enquiry u/s 5-A of the Act. It is also

brought to our notice that even for award enquiry, notice was sent to them only, and after completing all the formalities, award was passed on

26.2.1996.

9. As per the revenue records, the Writ Petitioner was not the owner of the land acquired and the Revenue Officials sent notices to the person

whose name finds place in their records. No doubt, learned Counsel for the appellant/petitioner submitted that both Gobald Motor Private Limited

and the Writ Petitioner sent letters on 20.5.1995 and 15.6.1995 to the Joint Director, Government of Tamil Nadu, Adi Dravida and Tribal

Welfare Department, and the Joint Secretary, Government of Tamilnadu, Adi-Dravida & Tribal Welfare Department, conveying their stand. In

view of the fact that under Tamil Nadu Act, the District Collector is the competent authority to decide, we are of the view that the information sent

to the Joint Director and the Joint Secretary is in no way helpful to the stand taken by the Writ Petitioner. It is also not in dispute that, in view of the

fact that the District Collector alone is empowered to consider and take appropriate steps for implementation of the Harijan Welfare Scheme by

acquiring suitable lands, the Government have no role to play. Courts have taken a view that the Land Acquisition officer is expected to proceed

and issue notice as per the entries made in the revenue records, however, if correct information is brought to the notice of the Officer concerned,

he is duty bound to enquire into the same and rectify the mistake. As stated

earlier, the letters referred to above were not sent to the authority

concerned, viz., the District Collector. In such circumstances, both the letters/communications are not helpful to the stand taken by the writ

petitioner.

10. Apart from the above factual details, it is seen from the counter affidavit of the District Collector, Coimbatore, that the award was passed on

26.2.1996 and House site pattas were issued on 19.3.1996 to 287 poor Adi Dravidars. Learned counsel for the third respondent/beneficiary also

informed us that, after taking possession, the beneficiaries put up huts and are residing therein. In view of the above factual details, we are not

inclined to accept the case of the appellant/petitioner and we hold that the learned Judge is perfectly right in dismissing the Writ Petition.

11. In the light of what is stated above, we do not find any error or infirmity in the order of the learned single Judge. Consequently, Writ Appeal

fails and the same is dismissed. No costs.