

T. Paramaraj Vs. State of Tamil Nadu Represented by Secretary to Government, Industries Department, Fort St. George, Madras-9, and Another

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Court : Chennai

Decided On : Sep-14-1999

Reported in : 1999(3)CTC715

Judge : P. Sathasivam, J.

Acts : [Land Acquisition Act, 1894](#) -- Sections 6 and 11

Appeal No. : W.P.No.8181 of 1995 and W.M.P. No.13112 of 1995

Appellant : T. Paramaraj

Respondent : State of Tamil Nadu Represented by Secretary to Government, Industries Department, Fort St. George

Advocate for Def. : Mr. V. Selvanayagam, Government Adv. (Writ)

Advocate for Pet/Ap. : Mr. G.Devadoss, Adv.

Judgement :

ORDER

1. The petitioner has approached this Court to issue a writ of Mandamus for bearing the respondents from proceeding further under Land Acquisition Act in respect of the lands covered under Section 6 declaration issued in G.O.Ms.No.154

Industries (MIH-II) dated 26.4.1993 of the Government of Tamil Nadu under which the land of the petitioner comprised in Survey No.222/8 in Pallapatti Village, Nilakottai Taluk, Dindigul Anna District has been declared to have been acquired on various grounds.

2. Heard the learned counsel for the petitioner as well as learned Government Advocate for the respondents.

3. After taking me through various averments made in the affidavit, the learned counsel for the petitioner has raised the following contentions:-

(i) In as much as there was no prior approval by the Government/competent authority, the award said to have been passed on 16.6.1995 is non cost and cannot be sustained.

(ii) Since the declaration under Section 6 was published on 16.6.1993, the award said to have been passed on 16.6.1995 is out of time, accordingly the same is also liable to be set aside.

4. On the other hand, learned Government Advocate after taking me through the various averments in the counter affidavit filed by the first respondent would contend that since the award has been approved by the District Revenue Officer as per the instructions of the Commissioner of Land Administration, the award passed on 16.6.1995 cannot be in to ordered. He would also contend that the award passed on 16.6.1995 is within the time prescribed, hence prayed for dismissal of the writ petition.

5. With regard to the first contention raised by the learned counsel for the petitioner, there is no dispute that as per first proviso to Section 11 of the Act before passing of an award, prior approval of the appropriate Government or such authority as prescribed is a mandatory one. Even though, it is stated that prior approval was not at all obtained from any one in the counter affidavit filed by the first respondent in para-5 it is stated that 'The Land Acquisition Officer, has prepared the draft Award and it has been got approved by the District Revenue Officer as per the instructions of the Commissioner of Land Administration. After

getting the approval of the draft Award from the District Revenue Officer, the Land Acquisition Officer passed the award in his Award No.5/95, dated 16.6.1995.' It has not been explained as to how the District Revenue Officer is authorised or empowered to approve the award. On the other hand, it is brought to my notice that by G.O.Ms.No.2003,Revenue, dated 30.12.1984, the Governor of Tamil Nadu authorised the Commissioner of Land Administration and District Collector to approve awards. First Proviso to sub section (1) of section 11, issued the following notification:-

(i) The Commissioner of Land Administration to approve every award in which the total compensation to be allowed exceeds 10 lakhs rupees;

(ii) The District Collector to approve every award in which the total compensation to be allowed does not exceeds 10 lakhs rupees.

It is also stated that the amount has been further amended the enhanced as Rs.20 lakhs instead of Rs.10 lakhs as mentioned above.

6. It is clear that the Government have authorised only the Commissioner of Land Administration and District Collector to approve every award depending on the amount fixed. In the absence of any such specific authorisation, it is not clear as to how the District Revenue Officer has approved the award in question. In the absence of any specific information and in view of the notification referred to above. I sustain the first contention raised by the learned counsel for the petitioner.

7. Regarding the second contention, there is no dispute that the declaration under section 6 of the Act was published in the Tamil Nadu Government Gazette on 12.5.1993, in the dailies on 23.5.1993 and in the locality on 16.6.1993. In other words, the date of declaration was 16.6.1993. As per Section 11A of the Act, the collector has to make an award within a period of two years from the date of publication of declaration under section, 6 of the Act. I have already stated that the date of declaration was on 16.6.1993. If that is so, the award in our case ought to have been passed on or before 15.6.1995. In this regard, the learned counsel for the petitioner has brought to my notice a decision rendered by the Apex Court reported in State of UP and others v. Rajiv Gupta and another, : (1994)5SCC686 ,

similar question was considered by the Honourable Supreme Court in that decision. Declaration under Section 6 of the Act was published in that case on 22.12.1990. Their Lordships have held that by operation of Section 11A, the award should be made within two years from the date of publication of declaration under section 6 of the Act i.e. on or before 21.12.1992. If that is so, in our case as observed earlier, the award ought to have been passed on or before 15.6.1995. Admittedly, in our case the award has been passed only on 16.6.1995, which is beyond the prescribed limit as stated above. Accordingly, I sustain the second contention also. Therefore, the petitioner is entitled to succeed.

8. Under these circumstances, the writ petition is allowed and the entire acquisition proceedings are quashed. No costs. It is made clear that allowing of the writ petition will not be a bar for the respondents to proceed afresh, if they so desire. Consequently, W.M.P.No.13112 of 1995 is closed.

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