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Court : Chennai

Decided On : Aug-03-2000

Reported in : 2000(4)CTC129

Judge : T. Meenakumari, J.

Acts : [Land Acquisition Act, 1894](#) -- Sections 4, 5A and 6

Appeal No. : W.P. No. 20059 of 1992

Appellant : Rama Devi

Respondent : The State of Tamil Nadu Rep by the Secretary to Government, Housing and Urban Development Departme

Advocate for Def. : Mr. S. Wilson Government Adv.

Advocate for Pet/Ap. : Mr. V. Nicholas, Adv.

Judgement :

ORDER

1. This writ petition is filed to issue a writ of Certiorari calling for the records relating to the Notifications under Section 4(1) of the Act made in G.O.Ms.No.976 Housing and Urban Development Department dated 12.6.1991 and published in

the Government Gazette dated 17.7.1991 and the Declaration under Section 6 of the Act made in G.O.Ms.No.573 Housing and Urban Development (L.A.II) dated 1.9.1992 and published in the Government Gazette dated 1.9.1992 and quash the same so far as they relate to the lands of the petitioner to an extent of 10 cents (0.40.0 hectares) in S.No.24-1 A.2 in No.101, Nalingapetta Agraharam, Hosur Taluk, Dhramapuri.

2. The case of the petitioner is that he purchased the land in question from one Smt.Venkatamma who in turn purchased the said lands from one P.A.Viswanathan. The petitioner purchased the lands from the said Venkatamma on 16.7.1982.

3. The main grievance of the petitioner is that even though she has purchased the lands in question in the year 1982 itself, notices under Section 5-A of the Act has been issued to the said P.A.Viswanathan. Having come to know about the land acquisition proceedings, the petitioner herein has chosen to File his objection to Section 5-A enquiry on 14.1.1991. Since she became a 'Person Interested' to the land acquisition proceedings, she brought to the notice of the authorities concerned that she would have been issued notice under Section 5-A of the Act and requested the authorities to consider her objections.

4. Learned Counsel appearing for the petitioner has argued that the objections of the petitioner have not been considered at all and no notice under section 5-A has been issued to the petitioner and declaration under Section 6 of the Act contains the name of the said P.A.Viswanthan. Aggrieved by the action of the respondents the petitioner has come forward with the present writ petition.

5. Learned Counsel for the petitioner has relied on a judgment reported in P.C. Thanikavelu v. Special Deputy Collector L.A., Madras, : AIR1989 Mad222 (FB) wherein the Full Bench has held as follows:-

' In an enquiry under section 5-A if it is brought to the notice of the Collector by the erstwhile land owner or by any other person including the owner thereof, of the name of interested persons, not named in Revenue Records the collector as a statutory functionary cannot decline to afford an opportunity to the person who is

really interested in the land and close the enquiry. When such information is brought to the notice of the collector, it is needless to say that the principles of natural justice enjoin upon him an obligation to issue notice to the person who is found to be really interested in the land even though his name may not be found entered in the revenue records. It is true that the Government has the prerogative to acquire lands belonging to individuals for a public purposes sanctioned under the theory of 'eminent domain'. But the rule of law which governs and controls the executive functions in the thread that runs through the fabric of constitutional democracy, the rule of law behoves the Government to act fairly and reasonable and the principles of natural justice are the quintessence of such fair play and reasonableness.'

It is therefore elementary that, to be consistent with the principles of natural justice, such a person should be put on notice before his lands are acquired and his objection heard and considered. The enquiry contemplated under Section 5-A of the Act would be full and complete only when the persons who is really interested in the land is put on notice. But, at the same time, it has to be made clear that individual notice is mandatory only to those persons whose names are found in the revenue records or who are found by the collector as persons interested on information received through reliable source.'

6. Learned Government Advocate was directed to produce the records and he also produced the records. The records also show that the petitioner has brought to the notice of the authorities that she is the 'Person interested' in the land acquisition proceedings. But the authorities, ignoring the same, have issued declaration under Section 6 of the Act.

7. Under the above circumstances, the action of the respondent is not issuing notice is fatal to the land acquisition proceedings and hence, following the full bench judgment of this court cited supra, the land acquisition proceedings are quashed and the writ petition is allowed. No costs. Respondents are at liberty to proceed fresh if they so desire. Consequently, WMP.No.28878 of 1992 is closed.