

Subbammal Vs. the State of Madras, Represented by the Secretary, Home Department and anr.

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Court : Chennai

Decided On : Jan-08-1968

Reported in : (1968)2MLJ190

Appellant : Subbammal

Respondent : The State of Madras, Represented by the Secretary, Home Department and anr.

Judgement :

ORDER

T. Venkatadri, J.

1. An interesting question of law arises in this Writ Petition namely whether the Land Acquisition proceedings in respect of S. No. 36/2 in Kangaranandal Village, Polur Taluk, become void on the simple ground that the Government did not contribute even a proverbial pie in order to pay compensation, from and out of the public revenues as declared in their declaration under Section 6, dated 20th November, 1953.

2. The petitioner possessed two small properties, namely, 74 cents of wet land in S. No. 149/2 and 1.74 acres of dry land in S. No. 36/2. The Government sought to acquire an extent of 50 cents of land from and out of S. No. 36/2 to provide

quarters to seven Koravars, on applications filed by them to acquire these lands for their residential purposes and they undertook to pay the entire compensation in respect of the lands sought to be acquired. Accordingly the seven Koravars deposited into the Treasury a sum of Rs. 630.83 on 1st June, 1963 at the rate of Rs. 87.69. The Government notified under Section 4 (1) of the Land Acquisition Act and on 20th November, 1963, they issued the declaration. On 3rd April, 1964 the Koravars deposited the balance of the amount towards the compensation and the awards as pronounced on 31st July, 1964. The petitioner, as stated previously, by me wants to quash the whole proceedings on the simple ground that the Government has not contributed even a single pie towards the compensation payable from the public revenues. It is manifestly clear that the Government has not contributed even a single pie towards the compensation amount except, by the Government Order dated 27th September, 1953, merely declaring that the entire costs of the acquisition will be borne by the Government. Factually, the Government did not : contribute any amount towards the compensation amount. On the other hand it is perfectly clear that the Koravars paid the entire amount of compensation towards the land to be acquired by the Government. Evidently it is worthwhile to refer to a case in *Ponnaia v. Secretary of State for India* : AIR1926 Mad1099 , where the learned Judges held as follows:

We think that the Legislature, when they passed the Land Acquisition Act, did not intend that owners should be deprived of their ownership by a mere device of private persons employing the Act for private ends or for the gratification of private spite or malice.

In a similar situation, Rajagopalan, J., observed in *Syed Dilawar v. Collector of Madras* (1955) 1 M.L.J. 306 : (1955) M.W.N. 285 that the letters written by the Director of Harijan Welfare to the Government and to the tenants indicate that the tenants were to meet the entire cost and these correspondence do not indicate that any portion of the cost of acquisition, even one anna, was to be paid by the Government out of public revenues, and therefore, the declaration issued by the Government under Section 6 (1) had to be set aside as one made without jurisdiction. In the present case, I fee] that the Government sought to acquire this property only to benefit these seven Koravars. Since the procedure as to the

acquisition of lands has not been followed strictly and since it is a colourable exercise of power, I feel that the whole proceedings should be quashed. Therefore the proceedings initiated by the Government in respect of S. N. 36/2 is quashed.

3. The writ petition is allowed, but there will be no order as to costs.

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