

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(SPECIAL ORIGINAL JURISDICTION)

Monday the sixth day of November
One thousand nine hundred and seventy eight

PRESENT:

The Honourable Mr. Justice Sathiadev

Writ Petition No.1718 of 1972

A.S.S.R. Swaminathan Chettiar .. Petitioner
Vs

1. The Land Commissioner,
Board of Revenue, Madras-5
2. The Authorised Officer of Land
Ceiling, Tiruchirappalli .. Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a Writ of mandamus directing the respondents to forbear from taking further proceedings pursuant to the order dated 13-12-1967 passed by the 1st respondent in R.P.No.33 of 1967 (L.Ref).

ORDER:

This Writ Petition coming on for hearing on this day upon perusing the petition and the affidavit filed in support thereof the order of the High Court, dated 24-7-1972 and made herein, and the counter affidavit filed herein and the records in R.P.No.33 of 1967 (L.Ref) relating to the order dated 13-12-67 on the file of the 1st respondent, comprised in the return of the respondents to writ made by the High Court and upon hearing the arguments of Mr. N. Srivastamani, Advocate for the petitioner and of Mr. C. Chinnaasami, Advocate for the Government Pleader for the Respondents the court made the following order:-

The limited point taken in this Writ Petition is that an extent of 6.26 acres equivalent to 1.50 standard acres had already been notified under section 4(1) of the Land Acquisition Act as early as April 1964 and therefore the surplus declared by the Authorised Officer under the Tamil Nadu Act 58 of 1961

fixing it at 1.50 acres as surplus is not correct, the contention is as soon as a notification is made under section 4(1) of the Land Acquisition Act the land vests with Government and that the land owner will have no rights in those properties and hence the extent covered by the Land Acquisition Act should not have been taken into account. This contention has to be rejected because it is only when the acquisition proceedings are completed, and only on the day when possession is taken the land vests with the Government under the Land Acquisition Act. Even otherwise, it is seen that possession of the surplus land was taken on 6-4-66 whereas the award itself was passed only in October 1966, i.e. nearly six months subsequent to the declaration of surplus of lands and possession of the land having been taken under the Tamil Nadu Act 58 of 1961. Therefore, the petitioner has belatedly approached the respondents herein for any relief.

In this case, long after the surplus lands have been taken under Tamil Nadu Act 58/61, the award having been passed under Land Acquisition Act, I see no substance in the contention taken in this petition, the Writ Petition stands dismissed. However there will be no order as to costs.

(Sd.) K.P. Madhavan,
Assistant Registrar (P).

/True copy/