

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2005

CORAM

THE HON`BLE MR.JUSTICE P.K.MISRA

WRIT PETITION NO. 21285 of 2002

1. Chandrasekaran
2. Gnanaguru
3. Kanchana
4. Hamsa
5. Nagabhoosanam
6. Appasamy Mandiri
7. Vadivel Mandiri (died)
8. Sarathambal
9. Gnana Sekhar
10. Ramachandran
11. Dhanalakshmi
12. Kasturi
13. Pushpa
14. Malliga

petitioners 8 to 14 substituted in the place of the 7<sup>th</sup> petitioner deceased as per order of the Court dated 26.07.2005 in WPMP No.46967 of 2005

...Petitioners

vs.

1. The Commissioner & Secretary to Government  
Agricultural Department,  
Fort St.George, Chennai.
2. The Director of Agriculture,  
Chepauk, Chennai.
3. The Collector,  
Vellore, Vellore District.
4. The District Revenue officer,  
Vellore, Vellore District.
5. The Revenue Divisional Officer,  
Ranipet, Vellore District.
6. The Special Tahsildar,  
Land Acquisition,

State Seed Farm  
Navaloc.

..Respondents

Writ Petition filed under Article 226 of Constitution of India praying this court to issue a writ of mandamus, to directing the respondents herein to hand over the possession of the lands belonging to the petitioners in old S.No.21/2 New s.No.70/2, measuring an extent of 12 acres, old S.No.21/4, New S.No.70/4, measuring an extent of 7 acres 1 and old S.No.21/5, New No.S.No.70/5, measuring an extent of 9.32 acres at Navlok village to the petitioners.

For petitioners : Mr.R.Margabandhu  
For respondents : Mr.S.Gomathy  
Narayanan, Spl.G.P.

ORDER

Heard Mr.R.Margabandhu, learned counsel appearing for the petitioners and Mr.S.Gomathy Narayanan, Special Government Pleader appearing for the respondents.

2. The Writ Petition was filed in the year 2002. Even though three years have elapsed, no counter has been filed. Subsequently, the matter was directed to be listed for orders on 01.10.2005 and again adjourned to 07.10.2005, indicating that no further adjournment would be given. Ultimately, the matter is again listed on 28.10.2005 and yet, the respondents have not woken up from slumber and have not filed any counter. However, the learned Special Government Pleader has produced a draft counter, which does not improve the position as no clear picture is depicted in such "draft counter". The learned Special Government Pleader has also produced the relevant file.

3. From the unchallenged averments made in the Writ Petition as well as other materials, it is apparent that the properties of the petitioners were requisitioned under Tamil Nadu Requisitioning and Acquisition of Immovable Property Act, 1956. The unchallenged document available at page 60 of the type set of papers clearly indicates the sanction of Rs.1,40,053/- for payment of lease compensation for the lands to the extent of 410.46 acres requisitioned for the State Seed Farm, Navlock village, Wallajah Taluk in North Arcot Ambedkar District. Sl.Nos.10, 11 and 12 of such document dated 15.03.1991 relates to the present petitioners. The lease amount represent the amount payable for a period of 11 years from 1977-78 to 1987-88.

4. The grievance of the petitioners is to the effect that thereafter, the State Government has neither taken any steps for acquisition of the property, as contemplated under Section 7 of the said Act nor they have paid any further amount. It is asserted that inspite of several representations, no action had been taken. A representation dated 30.01.2002 is available at page 64. In the absence of any counter affidavit, the assertion made by the petitioners and the documents produced are bound to be accepted. At any rate, the respondents are not in a position to show that after 1991, any steps have been taken for acquisition of the property, as contemplated under Section 7 of the Act nor there has been any land acquisition proceedings under any other Act, such as Land Acquisition Act, 1894 or any other Act relating to land acquisition. In the background of aforesaid basic facts, the question is whether a direction has to be issued to the respondents to release the properties from requisitioning.

5. Section 6 of the said Act clearly envisages that the property is required to be released, unless further steps are taken as contemplated under the Act. In the present case, it is apparent that no further steps have been taken and therefore in the absence of any further requisition or any acquisition, as contemplated under Sections 6 or 7, there is no other alternative than to give a direction to the respondents to release the properties in favour of the petitioners.

6. The learned counsel for the State has submitted that the lands had been requisitioned long back and the petitioners have kept quiet and after this long lapse of time, such property should not have been directed to be released.

7. It is not correct on the part of the State Government to continue in illegal possession of the properties of the petitioners. In the present case, it is found that the petitioners have been trying to get back the property. Yet, the respondents have not taken any action. Since the respondents have continued in possession, it is obvious that they are required to pay the compensation, as contemplated under Section 8 for the period of occupation, after 1987-88. Moreover, the right to acquire the lands could have been exercised only within a period of 10 years, yet, they have not done so. There is no scope of invoking the power under Section 7 of the Act at this stage. In such view of the matter, the

respondents are also bound to release the properties in favour of the petitioners. The learned Special Government Pleader for the respondents further submitted that the land is actually required for the purpose of Seed Farm. Even though it is not for the Court to advise the State, it is needless to point out that it is always open to the State to have recourse to the provisions of Land Acquisition Act for acquisition of any property required in public interest.

8. For the aforesaid reasons, the Writ Petition is allowed. The respondents are directed to release the properties and to hand over possession to the petitioner No.1 on behalf of petitioners 1 to 5 in respect of Serial No.10 in the document dated 15.03.1991 i.e. Survey No.21/2 corresponding to 70/2; the petitioner No.6 in respect of Serial No.12 in the document dated 15.03.1991 Survey No.21/5 corresponding to Survey No.70/5; and the petitioner No.8 on behalf of the petitioners 8 to 14 in respect of Serial No.11 in the document dated 15.03.1991 regarding Survey No.21/4, corresponding to 70/4. This order regarding delivery of possession should be carried out, within a period of 60 days from the date of receipt of the order. The compensation amount payable for the period from 1987/88 till this date, shall be determined, if necessary, by appointing an Arbitrator, and shall be paid within six months.

9. The Writ Petition is allowed with the above terms. Even though it is a fit case for imposition of cost, I desist from doing so.

Ajr.

Sd/  
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Commissioner & Secretary to Government  
Agricultural Department,  
Fort St.George, Chennai.



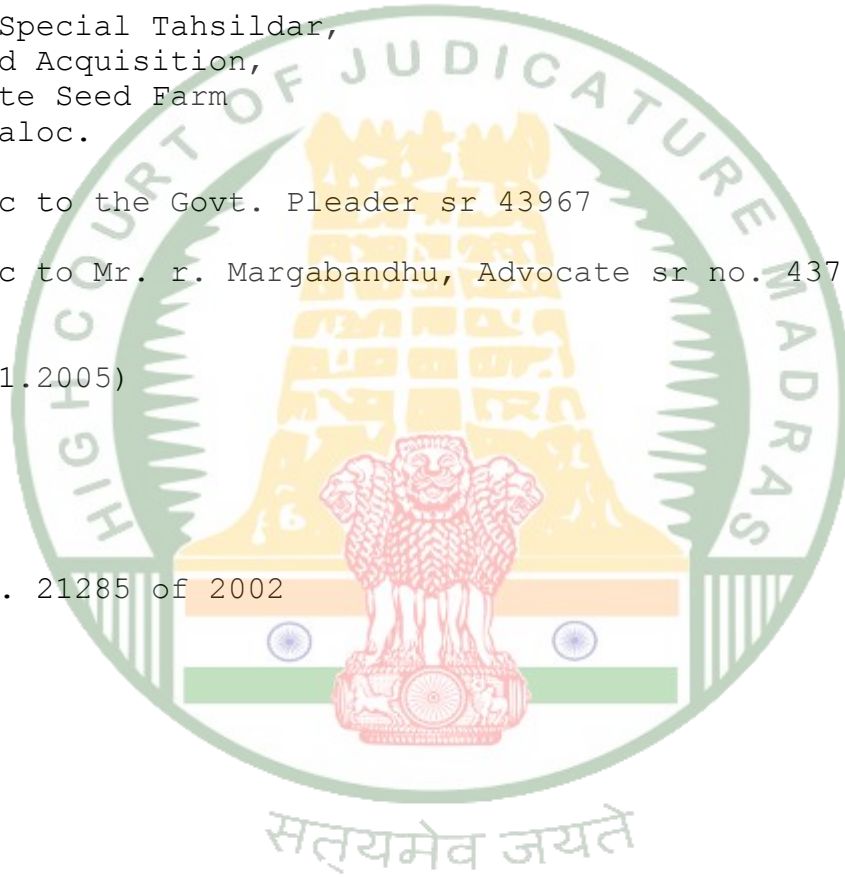
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+ One cc to the Govt. Pleader sr 43967

+ one cc to Mr. r. Margabandhu, Advocate sr no. 43738

TS(CO)  
NM(09.11.2005)

W. P.NO. 21285 of 2002



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