

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON : 10/11/2014

DATED : 18/12/2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.23611 of 2014

G.Devadoss

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary,
Industries Department,
Fort St. George,
Chennai-600 009.
 - 2.The District Collector,
Kancheepuram District,
Kancheepuram.
 - 3.The Special Tahsildar,
Land Acquisition Unit - 3,
Sipcot,
Sriperumbudur Expansion Scheme-II,
Sriperumbudur, Kancheepuram District.
 - 4.The Managing Director,
SIPCOT UNIT-III,
Sriperumbudur Expansion Scheme,
19-A, Rukmani Lakshmipathi Salai,
Egmore, Chennai-600 008.
- ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for a Writ of Certiorarified Mandamus, to call for the records pertaining to the Acquisition Notification in G.O.Ms.No.112, Industries (SIPCOT-LA), dated 04.06.2012, on the file of the first respondent issued under Sub Section (1) of Section 3 of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997, published in the Tamil Nadu Government Gazette Extraordinary No.149-Par-II, Section 2, dated 04.06.2012 relating to the property schedule therein and in so far as the petitioner property in concerned, being 0.09.5 hectare of land, comprised in Survey No.71/3A, Mathur Village, Sriperumbudur Taluk, Kancheepuram District and the consequential notice under Section 4(2) of the Tamil Nadu Acquisition of Land for Industrial Purpose Act, 1997 (Act 10 of 1999) issued by the second and third respondents in their

proceedings in RC No.5/2009, dated 10.12.2014 and quash the same and consequently direct the first respondent to conduct personal hearing as per the representation of the petitioner dated 01.04.2014 by furnishing the report of the respondents 3 and 4 to him.

For Petitioner : Mr.T.Balakrishnan

For Respondents : Mr.M.S.Ramesh A.G.P., for R1 to R3
Mr.Sudharshana Sundar for R4

O R D E R

The petitioner has submitted that VGP Development Corporation Chennai promoted Housing Layout in the name of VGP Jayanthi Town Part-I, in the lands comprised in Survey No.71/3A, situated at No.180, Mathur Village, Sriperumbudur Taluk, Kancheepuram District after getting necessary approval from the Director of Town and Country Planning Authority. The petitioner has further submitted that he has purchased 0.09.5 hectare of land in the said Scheme comprising Survey No.71/3A, Mathur Village, Sriperumbudur Taluk, Kancheepuram District from Tmt.P.Bhavani, wife of Pattu Selvam by a sale deed dated 19.09.2006 and registered as Document No.17230/2006, dated 19.09.2006 in the Sub Registrar's Office, Sriperumbudur and became absolute owner of 0.09.5 hectare of land by paying Government Taxes in his name and he has also been given patta No.1234, dated 12.06.2007 in his name by the Divisional Deputy Tahsildar, Sriperumbudur. The petitioner has further submitted that with an intention to set up a manufacturing enterprise in the name of M/s.DAP Enterprises in the said piece of land, he has made necessary arrangements since one of his sons viz., D.Anto Renis has completed B.T. Degree course and got First Class from Anna University of Technology, Tirunelveli held in April, 2011 and Department of Industries and Commerce has also approved the said DAP Enterprises in its order dated 20.02.2014.

2. The petitioner has further submitted that the second respondent in its letter RC No.5/2009 Unit II, dated 10.02.2014 has informed him, that as per the powers delegated by the Government in G.O.Ms.No.112, Industries (SIPCOT-LA) Department, dated 04.06.2012 to the District Collector, he is directed to hand over his 0.09.5 hectare of land to the Special Tahsildar, (LA) SIPCOT, Unit-II, Oragadam Expansion Scheme-II, Sriperumbudur within 30 days of service of his orders. The petitioner has further submitted that in his objection letter dated 01.04.2014 addressed to the District Collector, Kancheepuram, he has requested the said Collector to give exemption from acquiring his piece of 0.09.5 hectare of land in Survey No.71/3A since he has decided to set up manufacturing enterprises in the name of DAP Enterprises since one of his son viz., D.Anto Renis has completed B.E. Degree

Course held in April 2011 from Anna University of Technology, Tirunelveli and necessary approval has also been obtained from Industries and Commerce Department in its letter dated 20.02.2014 to start manufacturing enterprises. The petitioner has further submitted that he has not received any reply to his objection letter from the District Collector of Kancheepuram, the second respondent herein so far and he has been under the impression that after his representation to the second respondent herein, a date will be fixed for enquiry and he would be given an opportunity in person to explain his position to the first respondent. However, to his shock and dismay, the first respondent has issued the Impugned Acquisition Notification under Section 3(1) of the Act, 1999 in G.O.Ms.No.112, Industries (SIPCOT-LA) 4th June 2012, stating that the lands referred to in the Gazette Notification are required for the following purpose:-

"The Government of Tamil Nadu having been satisfied that the lands specified in the schedule below have to be acquired for industrial purpose, to wit, for expansion SIPCOT, Oragadam Industrial Growth Centre (Expansion-II) and expansion Scheme and complex it having already been decided that the entire amount of compensation to be awarded for the lands is to be paid out of the funds controlled and managed by Government, the following Notice is issued under Sub Section (1) of Section 3 of the Tamil Nadu Acquisition of Land for Industrial Purpose Act, 1999 (Tamil Nadu Act, 10 of 1999)."

3. The petitioner has further submitted that he came to know about the fact of issuing the Impugned Notification by the Government, the first respondent herein only in the first week of August 2014. The petitioner has further submitted that he was neither informed about the rejection of his objection nor any enquiry was conducted by the second respondent as per Rule 6(b) and (c) of the Act and he has not been served with the impugned notification issued under Section 3(1) of the Act. The petitioner has further submitted that the impugned gazette notification has not been issued in compliance with Section 3(2) and 3 of the Act, more specifically, the respondents have not conducted the enquiry and his objections were not considered as per the Rule 6(b) and (c) of the Act. Therefore, the notification issued under Section 3(1) of the Act is defective, illegal and against the statutory provisions contained in Tamil Nadu Act, 10 of 1999.

4. The petitioner has further submitted that hearing contemplated under Section 3(3) r/w Rule 6(b) and (c) is not an empty formality and the said right has been considered to the level of Fundamental Rights by this Court. The acquisition of land is a serious matter and when the State decides to deprive a person of his property by taking recourse to the acquisition laws, it is bound to offer him an opportunity to

file objections under Section 3(2) of the Act and of being heard by the first respondent in terms of Section 3(1) and 3 (3) of the Act.

5. The second respondent has filed a counter affidavit and resisted the above writ petition. The second respondent has submitted that State Industries Promotion Corporation of Tamil Nadu Limited (SIPCOT), a Government of Tamil Nadu Undertaking, the fourth respondent Corporation herein, is engaged in establishing and maintaining Industrial Complexes / Parks in the State towards industrialization of the State. There is heavy demand for industrial plots in the State, particularly in the areas around Chennai, due to locational advantages such as road connectivity, proximity to Airport and Seaport etc., and considering the same, SIPCOT has taken up expansion of Industrial Complexes / Parks, which it has already established in the areas around Sriperumbudur, Kancheepuram District. In G.O.(Ms)No.2, Industries (SIPCOT-LA) Department, dated 06.01.2009, the Government accorded the Administrative sanction for acquisition of 173.25.5 hectares of dry patta land in Vaipur, Mathur and Perinjambakkam Villages of Sriperumbudur Taluk, Kancheepuram District under Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (TN Act-10 of 1999) for the purpose of expansion of SIPCOT Oragadam Industrial Growth Centre (Expansion-II). The acquisition proceedings were accordingly initiated with Special Land Acquisition staff appointed by the Government for the purpose. For the purpose of administrative convenience, the total patta lands of 173.25.5 hectares, subjected to acquisition, were bifurcated into various blocks and units and 14.70.5 hectares, including the petitioner's land measuring 0.09.5 hectares in Survey No.71/3A of Mathur Village, is coming under Unit-II, Block-3. As the first step, the Form-A notice under Section 3(2) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (hereinafter referred to as the "Act") in respect of the lands covered under Unit-II, Block-3 (including the petitioner's land) was approved by the District Collector, Kancheepuram (Land Acquisition Officer), the second respondent herein in his reference RC No.5/2009, dated 10.12.2009 and sent to the landowners. The Form-B notice under Section 3(2) of the Act was approved by the second respondent on 10.12.2009. The Form-B notice was published in two dailies at Chennai Edition Deccan Chronicle in English and Dinakaran in Tamil on 12.01.2010 and it was also published in the prominent places in around the locality on 22.01.2010. Necessary objections were also called for from the persons aggrieved of the acquisition. The date and venue of enquiry for hearing on objection received was also modified in the Notification as on 12.02.2010 at Collectorate, Kancheepuram. Accordingly, the District Collector, Kancheepuram, the second respondent herein, conducted the enquiry on the objections received at the Collectorate, Kancheepuram on 12.02.2010. However, the petitioner has neither submitted the objection petition nor attended the

enquiry conducted on 12.02.2010. Thereafter, based on the report sent by the second respondent, the Government approved the notice under Section 3(1) of the Act, vide G.O.(Ms)No.112, Industries (SIPCOT-LA) Department, dated 04.06.2012 and published the same in the Tamil Nadu Government Gazette Extraordinary No.149, dated 04.06.2012. After the said proceedings, the Form-E notice under Section 4(2) of the Act was sent to the petitioner in RC No.5/2009 Unit-II, dated 10.02.2014 and the petitioner was directed to hand over the possession of the land notified under Section 3(1). Hence, the second respondent entreats the Court to dismiss the above writ petition.

6. The learned counsel appearing for the petitioner has submitted that V.G.P.Housing Development Corporation, Chennai, had promoted housing layouts in the name of V.G.P.Jayanthi Town Part-I, in the land comprised in Survey No.71/3B of Mathur Village, Sriperumbuthur Taluk, Kancheepuram District, after obtaining necessary approval from the Director of Town and Country Planning Authority. The petitioner has purchased an extent of 0.09.5 Hectares of land in the said survey number from P.Bhavani, under a registered Sale Deed, dated 19.09.2006 and is in possession and enjoyment of the said landed property. Further, he is remitting mandatory taxes to the statutory authorities. He has also obtained Patta for the said land from the revenue authorities in his name. He has intended to set-up manufacturing enterprises in the said premises. In such circumstances, the first respondent issued the impugned acquisition notification, in the month of August, 2014, under Section 3(1) of the Land Acquisition Act, stating that SIPCOT Oragadam Industrial Growth Centre (Expansion-II) is to be established and hence asked him to hand over the possession of the subject land. The petitioner made a representation to the District Collector seeking exemption for the subject land from the acquisition proceedings. But, without any enquiry, the first respondent initiated the acquisition proceedings for industrial purpose. The petitioner was never informed about the acquisition proceedings. Gazette notification was also not published. Therefore, the notification, issued under Section 3(1) of the Land Acquisition Act, is defective, illegal and against the statutory provisions. The respondents are bound to offer the petitioner an opportunity to file objections under the provisions of Land Acquisition Act. Therefore, the learned counsel has prayed this Court to quash the acquisition proceedings initiated by the respondents and to direct the first respondent to conduct a personal enquiry as per the petitioner's representation, dated 01.04.2014, on merits.

7. The learned Additional Government Pleader appearing for the respondents 1 to 3 has submitted that the fourth respondent has been engaged in establishing and maintaining industrial complexes. Since there is a heavy demand for industrial plots in the State particularly in the

area around Chennai, SIPCOT has taken up expansion of the industrial complexes and the Government has also accorded administrative sanction for acquisition of 173.25.5 Hectares of dry lands in Vaipur, Mathur and Perinjappakkam Villages. Hence, the respondents acquired the petitioner's land. Necessary notification was published. The Acquisition Officer had also received objections and conducted enquiry on those objections and subsequently the objections were overruled on merits. After acquiring the lands, during 2012, Form-E notice under Section 4(2) of the Act was sent to the petitioner and he was asked to hand over the possession of the subject land within thirty days. Hence, for all the reasons, the learned Additional Government Pleader has prayed for dismissal of the writ petition.

8. The learned counsel appearing for the fourth respondent has adopted the arguments of the learned Additional Government Pleader.

9. On considering the facts and circumstances of the case, arguments advanced by the learned counsel on either side and on perusing the typed set of papers, this Court is of the view that the petitioner's representations, dated 22.02.2014 and 01.04.2014, are still pending before the respondents. Hence, this Court directs the respondents to dispose of the said representations on merits within a period of eight weeks from the date of receipt of a copy of this Order.

10. Accordingly, the writ petition is disposed of.
No costs.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

r n s / krk

To:

1.The Secretary,
Industries Department,
State of Tamil Nadu,
Fort St. George,
Chennai-600 009.

2.The District Collector,
Kancheepuram District,
Kancheepuram.

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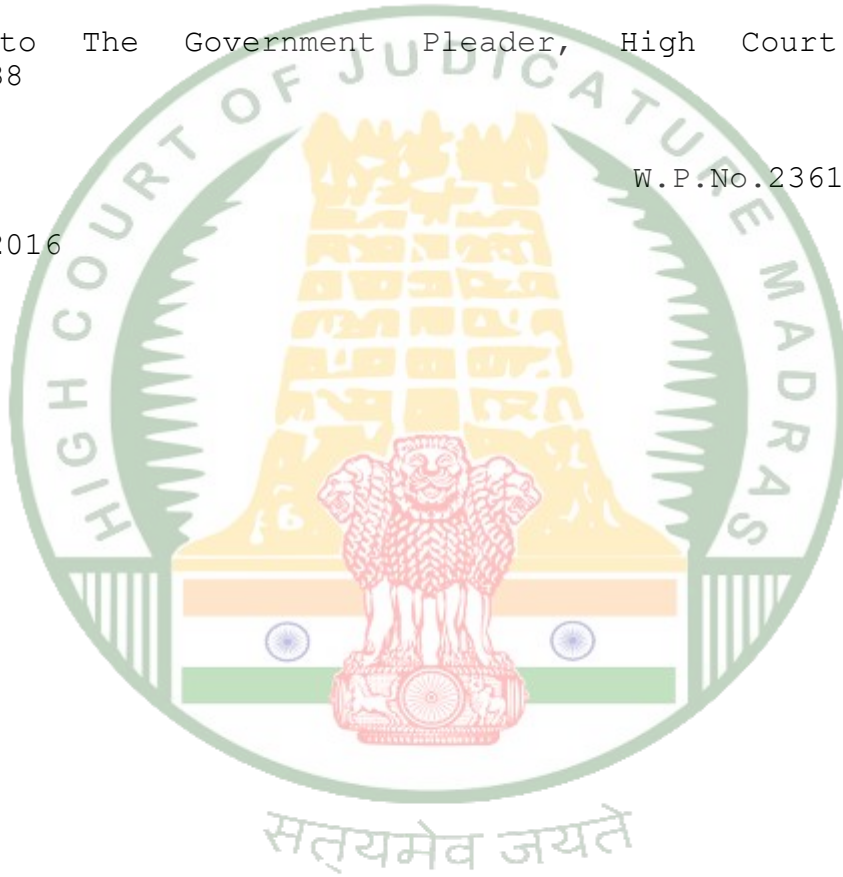
3.The Special Tahsildar,
Land Acquisition Unit - 3,
Sipcot,
Sriperumbudur Expansion Scheme-II,
Sriperumbudur, Kancheepuram District.

4.The Managing Director,
SIPCOT UNIT-III,
Sriperumbudur Expansion Scheme,
19-A, Rukmani Lakshmipathi Salai,'
Egmore, Chennai-600 008.

+1 C.C to The Government Pleader, High Court Madras,
SR.No.69238

EV(CO)
RA 03.02.2016

W.P.No.23611 of 2014



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