

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE V.DHANAPALAN
AND
THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

W.A.No.1087 of 2012

1. C.P.Munikrishnappa
2. C.P.Ramakrishnappa

...Appellants

Vs.

1. The Special Tahsildar (LA),
SIPCOT Hosur Taluk,
Krishnagiri.
2. The District Collector,
Krishnagiri District.
3. Lokesh
4. Munivenkatappa
5. Jayappa

...Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 19.03.2012 made in W.P.No.18709 of 2007 on the file of this Court.

Petition under Article 226 of the Constitution of India praying to issue a writ of mandamus to direct the first respondent to refer the award No.3/2007 dated 22.3.2007 with respect to survey No.454/1B of Mornapalli Village, Kumudhepalli post, Hosur Taluk, Krishnagiri District under section 30 of the Land Acquisition Act and further direct the respondent to pay compensation for the land in survey No.455 of Mornapalli village, Kumudhepalli post, Hosur Taluk, Krishnagiri district.

For appellants : Mr.V.Lakshminarayanan
For respondents : Mr.R.Rajeswaran, Spl.G.P.
for RR-1 & 2
Mr.K.Rajasekaran for RR-3 to 5

JUDGMENT

(The Judgment of the Court was delivered by V.Dhanapalan,J)

Heard Mr.V.Lakshminarayanan, learned counsel for the appellants, Mr.R.Rajeswaran, learned Special Government Pleader appearing for the respondents 1 and 2 and Mr.K.Rajasekaran, learned counsel appearing for the respondents 3 to 5.

2. This Writ Appeal is directed against the order dated 19.03.2012 passed by the learned single Judge in W.P.No.18709 of 2007, whereby the learned single Judge took a view that in the absence of similar provision akin to Section 30 of the Land Acquisition Act, making a reference would not arise and accordingly, dismissed the Writ Petition.

3. Learned counsel for the appellants vehemently contended that as there is a provision of law under the Special Enactment, namely the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (Tamil Nadu Act 10 of 1999), more particularly in Section 8 of the said Act for making a reference and in Section 9 of the said Act for apportionment, the same could have been looked into by the Writ Court, even though the appellants/writ petitioners have approached the Writ Court for a direction to make a reference under Section 30 of the Land Acquisition Act. He ultimately pleaded that the relevant provision of law may be permitted to be pleaded before the Writ Court, which may be considered by the Writ Court in accordance with law.

4. Mr.R.Rajeswaran, learned Special Government Pleader appearing for the respondents 1 and 2 is not opposed to such a plea to be raised before the Writ Court, including the provisions of law praying for making a reference and for apportionment under the said Special Enactment.

5. Heard the learned counsel for the respondents 3 to 5 on the above aspects.

6. This Writ Appeal has to be decided on a short point based on the pleadings and the claim made by the appellants/writ petitioners before the Writ Court, which was purely for making a reference under Section 30 of the Land Acquisition Act. Now, in the memorandum of grounds of Writ Appeal in Ground No.2, the appellants have raised a plea that the learned single Judge should have appreciated that the lands were acquired under the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 and in the event of dispute as regards title, it is obligatory on the part of the respondents 1 and 2 to adjudicate the case as per Section 8 of the said Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997, which is similar to Section 30 of the Land Acquisition Act and therefore, the learned counsel for the appellants submitted that the Writ Court ought to have considered the claim of the appellants/writ petitioners in the manner known to law.

7. A perusal of the entire pleadings of the appellants before the Writ Court shows that the claim was made only under the Land Acquisition Act and the reference was sought for only in respect of Section 30 of the Land Acquisition Act. When that is the position, the view taken by the learned single Judge that as there is no provision under the relevant Act akin to Section 30 of the Land Acquisition Act, making a reference would not arise, is not correct, in view of the fact that there is a Special Enactment as discussed above.

8. Now, in this Writ Appeal, the first respondent-Special Tahsildar (LA), SIPCOT, Hosur, Krishnagiri District, has filed a counter affidavit on his behalf and also on behalf of the second respondent, stating that the Government of Tamil Nadu issued administrative sanction for acquiring an extent of 59.36.5 hectares of patta land in Moranapalli Village, vide G.O.Ms.No.207, Industries (MIG-2) Department, dated 29.07.1997 and accordingly, an extent of 16.14.5 hectares of land in S.No.437/1B etc. including the land in S.Nos.437, 454 and 455 of Moranapalli Village, have been proposed to be acquired for the said purpose, that the Government in their order in G.O.Ms.No.286, Industries (MID-2) Department, dated 08.06.2000, approved the Notification under Section 4(1), which was published in the Tamil Nadu Government Gazette No.23(A) at pages 2 to 4, dated 28.06.2000 and the interested persons of these lands in S.Nos.437, 454, 455, have been notified and that after due publications on serving due notices, enquiry under Section 5-A was conducted and the proceedings under Section 5-A were drawn and served on 11.10.2000 on the writ petitioners. It is further stated in the counter affidavit that the Draft Declaration under Section 6 of the Land Acquisition

Act, 1894 was approved by the Government in their order in G.O.Ms.No.154, Industries (MID-II) Department, dated 20.08.2001 and when, at this juncture, the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (Act 10 of 1999) came into force, to continue the land acquisition proceedings, a Notification under Section 23(2) of the said Act 10 of 1999 was approved by the Government in their order in G.O.Ms.No.8, Industries (MID) Department, dated 08.08.2003 and the same Notification was also published at pages 5 and 6 of Part-2 Section of the Tamil Nadu Government Gazette, dated 08.08.2003 and according to the said Industrial Purposes Act, Form E was issued on 08.08.2003, directing the land owners to surrender possession, that the award enquiry was posted to 23.02.2007 at the Sub-Collector Office, Hosur, that on completion of enquiry, award was passed on 22.03.2007, vide Award No.3/2007, dated 22.03.2007 of the Special Tahsildar (LA), SIPCOT, Hosur and the compensation was settled.

9. In the light of the above facts stated in the counter affidavit and on considering the submissions made by the learned counsel for the appellants and the grounds raised in this appeal, it is seen that there is a provision of law under the Special Enactment, namely the Tamil Nadu Acquisition of Land for Industrial Purposes Act, namely under Section 8 for reference to be made to competent Court and under Section 9 for apportionment.

10. It is seen that the initial acquisition proceedings have been made under the Land Acquisition Act by the acquisitioning authority and therefore, administrative sanction of the Government was obtained and approval had been made by the Government in G.O.Ms.No.154, Industries (MID-II) Department, dated 20.08.2001 and while the acquisition proceedings were under progress, the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (Act 10 of 1999) came into force and therefore, all the further proceedings have been initiated under the said Special Enactment by getting the approval of the Government in G.O.Ms.No.8, Industries (MID) Department, dated 08.08.2003 and the further Notification was also published thereon and the acquisition proceedings have been initiated under the said Special Enactment.

11. When that is the position, the learned counsel for the appellants/writ petitioners made a consistent plea that the initial proceedings have been made under the Central Act, namely the Land Acquisition Act, 1894 and therefore, the writ petitioners claimed for making a reference under Section 30 therein. In view of the subsequent commencement of the Special Enactment, namely the Tamil

Nadu Acquisition of Land for Industrial Purposes Act, and as it has specific provisions of law relating to making a reference under Section 8 therein and also for apportionment under Section 9 therein, it is for the appellants/writ petitioners to move the Writ Court by making amendment of the prayer in the Writ Petition and also for seeking appropriate orders from the Writ Court.

12. In the light of the above stated position, though the learned single Judge looking into the provisions under the Land Acquisition Act, observed that in the absence of similar provision akin to Section 30 therein, making a reference would not arise and the Writ Petition was misconceived and accordingly dismissed the Writ Petition, but, by looking into the Special Enactment, namely Tamil Nadu Acquisition of Land for Industrial Purposes Act, as discussed above, which is a law made by the Legislature, specifying for reference under Section 8 and for apportionment under Section 9 therein, the learned single Judge is not correct in coming to such a conclusion that there is no similar provision akin to Section 30 of the Land Acquisition Act.

13. Hence, for the reasons stated above, the impugned order of the learned single Judge is set aside and the matter is remanded back to the Writ Court, with liberty to the appellants/writ petitioners to file appropriate amendment petition for amending the prayer in the Writ Petition, in which event, the parties are at liberty to contest the matter in the manner known to law. The Writ Court shall not be influenced by any of the observations made by us in this Writ Appeal and shall decide the Writ Petition independently in accordance with law and dispose of the Writ Petition expeditiously by first considering the amendment petition and then looking into the merits of the matter based on the same.

14. With the above observations and direction, the Writ Appeal is allowed and remanded to Writ Court. No costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

CS

Copy to

1. The Special Tahsildar (LA),
SIPCOT Hosur Taluk, Krishnagiri.
2. The District Collector,
Krishnagiri District.

1 CC to Mr.V. Raghavachari, Advocate SR.No. 8466

1 CC to Mr.K.Rajasekaran, Advocate SR.No. 8883

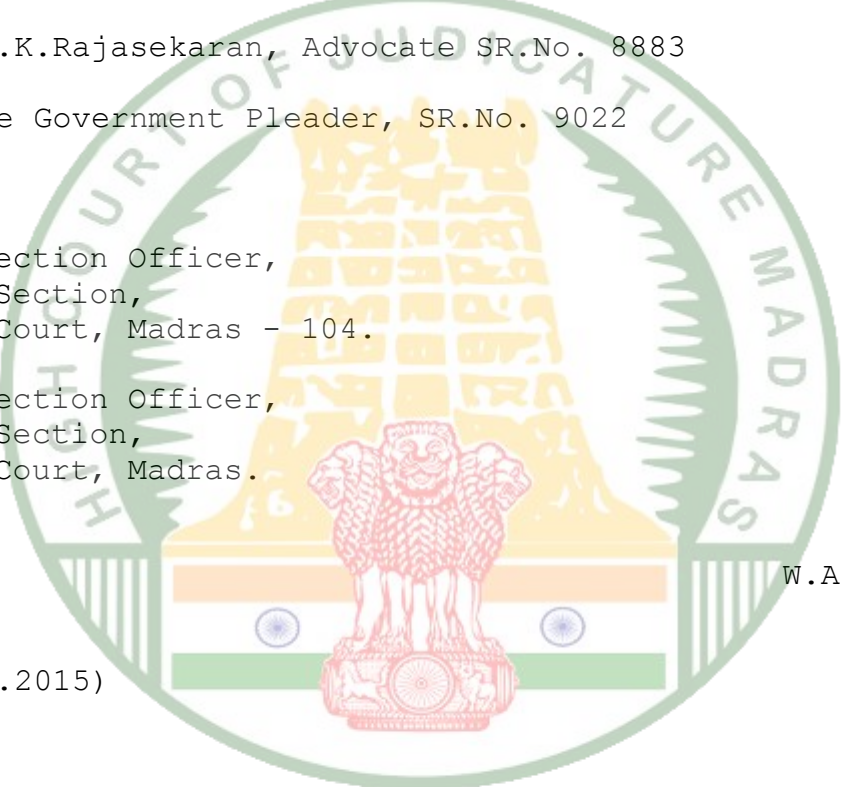
1 CC to the Government Pleader, SR.No. 9022

Copy to

1. The Section Officer,
Writ Section,
High Court, Madras - 104.
2. The Section Officer,
E.R. Section,
High Court, Madras.

JP (CO)
PSI (13.03.2015)

W.A.No.1087 of 2012

The seal of the High Court of Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital of Ashoka in front of it. The lion capital is set against a background of the Indian national flag's saffron, white, and green horizontal stripes, with the Ashoka Chakra in the center. The words "HIGH COURT OF JUDICATURE MADRAS" are inscribed in a green circle around the central image. Below the seal, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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