

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No. 29564 of 2015

Innvol Hotels Pvt. Ltd.
387, Wallajahbad Road, Kunnam Village,
Sriperumbudur Taluk,
Kanchipuram District - 631 604.

...Petitioner

Vs.

1. Government of Tamil Nadu
Rep. by its Secretary,
Industries Department,
Secretariat Fort St. George,
Chennai - 600 009.

2. Special Tahsildar (Land Acquisition)
Sipcot, Sriperumbudur and Irungattukkottai Scheme,
42, Thirumangal Alwar Street,
Near Vannaiyar Kalyana Mandapam,
Sriperumbudur.

3. Special District Revenue Officer (L.A.)
Sipcot, Oragadam and Irungattukottai Expansion Scheme,
Sriperumbudur.

4. District Collector,
Kanchipuram District,
Kanchipuram.

5. Sipcot,
P.B. No. 7223,
19A, Rukmini Lakshmipathy Road,
Egmore, Chennai - 600 008.

...Respondents

This petition is filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the respondent No. 2 to 4 in connection with the order bearing Award No. 1 of 2015/(Block-2) R.C.49/2009 dated 31.03.2015 issued by the said respondents, and to quash the same and to direct the respondent Nos. 2 to 4 to conduct a fresh enquiry for payment of compensation for acquisition of land of the petitioner for passing a fresh interim award morefully described in the schedule.

For Petitioner : Mr.R.Yashodvardhan
Senior Counsel for
Chitra Narayan

For Respondent Nos. 1 to 4 : Mr.R.Rajeswaran,
Special Government Pleader

For Respondent No. 5 : Ms.Sudharsana Sundar,

ORDER

Heard Mr.R.Yashodvardhan, the learned Senior Counsel for the petitioner, Mr.R.Rajeswaran, learned Special Government Pleader appearing for the respondent Nos. 1 to 4 and Ms.Sudharsana Sundar, the learned Counsel for the respondent No. 5 and with the consent of either side, the writ petition itself is taken up for final disposal at the admission stage.

2. The petitioner has filed this writ petition praying for issuance a writ of certiorarified mandamus to quash the award bearing Award No. 1 of 2015/(Block-2) R.C.49/2009, dated 31.03.2015 and to direct the respondent Nos.2 to 4 to conduct a fresh enquiry for payment of compensation for acquisition of land of the petitioner and to pass a fresh interim award.

3. The facts, which are necessary for the disposal of the writ petition, are that the petitioner is said to have purchased the property by a registered sale deed, dated 01.07.2007, registered as document No.17871/07, by paying a sum of Rs.6,66,00,000/-, as sale consideration. It is not in dispute that the lands in question has now been acquired under the provisions of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997. The acquisition proceedings is not under challenge. The petitioner's only grievance is that an award in form No.G was communicated, fixing an interim compensation of Rs.10,78,42,427/- and this, according to the petitioner, has been done without notice to the petitioner and without considering any of the documents, more particularly their own parent document/sale deed. A controversy was raised by the petitioner stating that no notice was sent to them to the correct address inspite of, the petitioner having intimated the second respondent by communication dated 08.08.2013, that their current registered and administrative office is at 387, Walajabad Road, Kunnam Village, Sriperumpudur, Taluk, Kanchipuram District - 631 604.

4. The learned Senior Counsel appearing for the petitioner has drawn the attention of this Court to the letter dated 08.08.2013, and pointed out that the 2nd respondent has received the said letter as evidenced by the date seal affixed in the office copy of the letter retained by the petitioner. Further it is pointed out that Form E notice, dated 26.09.2013 was communicated to the petitioner in the new address and the copy of the postal cover has been filed in page 32 of the typed set of papers.

5. Thus, in order to ascertain the correct factual position as to whether the petitioner was heard prior to fixation of the compensation and to ascertain as to whether notice was served on the petitioner to the address as intimated by the petitioner, this Court directed the learned Special Government Pleader to produce the records and also ask the concerned officials to be present before this Court today. Promptly, the learned Special Government Pleader as well as the learned counsel for the fifth respondent have ensured that the officers are present in Court along with the records. It is fairly admitted by the respondents that notice has not been served on the petitioner in the address given by him, prior to fixation of the compensation payable to the petitioner. However, a distinction is sought to be made stating that all earlier communications were sent to the old address and therefore, the plea raised by the petitioner is not tenable.

6. I am unable to appreciate the said contention, since, the petitioner being a person who has lost his land is entitled to a fair and reasonable opportunity of being heard at the time when the compensation payable to him is determined. Therefore, the technicalities have no place in such matter since, the petitioner's valuable right over the property has been forfeited by way of compulsory acquisition. Therefore, without going into the controversy as to whether notice was sent to the old or to the new address of the petitioner, etc., the respondents are directed to afford an opportunity to the petitioner to put forth his contentions. The learned Special Government Pleader on instruction submits that the authorities will afford an opportunity to the petitioner to place all documents and thereafter take a fresh decision on merits and in accordance with law.

7. Accordingly, the Writ Petition is allowed and consequently, the impugned award dated 31.03.2015 is quashed. The matter is remanded to the fourth respondent for fresh consideration, who shall issue a notice to the petitioner to the address as intimated by the petitioner vide letter dated 08.08.2013 and thereafter, hear the parties in person or through their authorised representatives, peruse all the documents and pass fresh orders on merits and in accordance with law as

expeditiously as possible, preferably within a period of three months from the date of receipt of copy of this order. Consequently, connected miscellaneous petitions are also closed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

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Rep. by its Secretary,
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+1 cc to Mrs.Chitra Narayan Advocate sr.63689
+1 cc to Government Pleader sr.63228

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