

THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON:23.12.2014

DATED:12.08.2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.26474 of 2009

and

M.P.No.2 of 2009

K.Neelamma

...

Petitioner

Vs.

1.The Secretary to Government,
State of Tamil Nadu,
Micro Small and Medium Enterprises (C) Department,
Fort St.George, Chennai.

2.The Chairman-cum-Managing Director,
Tamil Nadu Small Industries Development Corporation Ltd.,
Regd. Office at Paulwels Road,
Kathipara Junction, Chennai - 600 016.

3.The District Revenue Officer,
Hosur.

4.The Tahsildar,
Hosur Taluk Office,
Hosur.

सत्यमेव जयते

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records relating to G.O.Ms.No.40, Micro Small and Medium Enterprises (C) Department dated 02.07.2008 issued by the first respondent and Na.Ka.5953/87 (B2) dated 04.12.2009 issued by the third respondent and quash the same and consequently drop the land acquisition proceedings in respect of lands measuring an extent of 0.31.0 hectares in Survey No.596 situate at Hosur Village and Taluk, Krishnagiri District on the basis of resolution dated 01.03.2004, No.181 passed the Board Meeting of the second respondent.

For Petitioner : Mr.R.Bharath Kumar

For Respondents : Mr.M.S.Ramesh
(Additional Govt.Pleader for R1,R3&R4)
Mr.B.Manoharan for R2

O R D E R

The petitioner further submits that her mother Smt.Lakshamma was the absolute owner of the lands measuring an extent of 0.31.0 hectares (77 cents), comprised in Survey No.596, situate at Hosur Village and Taluk. During her life time, her mother had executed a Deed of Settlement dated 26.04.1982 registered as document No.1510/1982 at Sub Registrar Office, Hosur settling the said property in her favour. Eversince, the date of registered settlement and he is in peaceful possession and enjoyment of the said property by remitting necessary taxes and kists to the statutory bodies.

2. The petitioner further states that the lands in Survey No.576/B2 (0.67.5 hectares) Survey No.593 (1.26.5 hectares) and Survey No.596 (0.31.0 hectares) were in joint possession of her mother and her sisters Puttamma, Chinamma and Lakshamma and the above said persons were joint pattadars. She states that subsequently her Cousins viz., M.Jayaramiah and two others became the joint owners of lands in Survey Nos.576/B2 and 593.

3. The petitioner further states that the first respondent herein issued 4(1) notification in G.O.Ms.No.130, dated 02.11.1988 for the proposal of expansion of existing Electrical and Electronics Industrial Estate for the 2nd respondent herein. The said notification was also published in Government Gazette on 23.11.1988. Thereafter, on 17.04.1989 enquiry Under Section 5(A) of the Act was held and objections were filed.

4. The petitioner further states that since Section 6 Declaration was issued after the statutory period of one year the acquisition proceedings had become lapsed. It appears that on this ground in W.P.No.17977/1991 was filed before this Court challenging Sec.6 Declaration, by one Mr.Jayaramiah and two others in respect of Survey Nos.576/B2, 593 and $\frac{1}{4}$ of 0.31.0 hectares in Survey No.596 by an order dated 20.12.1991 in W.M.P.No.26951/1991, this Court was pleased to grant an order of interim stay of dispossession alone. Subsequently, the said writ petition was dismissed for non prosecution.

5. The petitioner further submits that she submitted an application before the Tahsildar for transfer of patta in respect of 77 cents of lands in Survey No.596 as the said Survey number was

included in the joint patta. By the proceedings dated 03.09.1999, the 4th respondent herein passed an order for issue of patta in her name. The petitioner states that various land acquisition original petitions were filed before the Subordinate Court for enhancement of compensation and aggrieved by the enhancement of compensation the Requisition Body, whose benefit the lands were acquired including the petitioner's land and others, convened a Board Meeting and passed Resolution No.181 which read as follows:

ITEM NO.18:

Land Acquisition - Krishnagiri District - Hosur Taluk and Village - 2.25.0 Hectares-return to the land owners to avoid payment of higher compensation.

Resn.No.181:

The present allotment position viz., 9 out of 118 developed plots was taken note of by the Board. Since it is found difficult to sell the existing plots already developed the Board felt that there may not be takers after developing the 2.25.0 Hectares with enhanced compensation. Hence, the Board decided to drop further action to acquire the 2.25.0 Hectares of land, the Board therefore RESOLVED to authorize the Managing Director to withdraw the land acquisition proposal in respect of the following land and to get back an amount of Rs.6,58,908/- (Rupees Six Lakhs Fifty Eight Thousand Nine Hundred and Eight only) kept in the Civil Court Deposit.

S.No	Survey No.	Extent in Hect.	Name of the land Owners
1.	576/B2	0.67.5	M.Jayaramiah legal heirs of Muthithimaiha Chetty
2.	593	1.26.5	Rajagopal and others
3.	596	0.31.0	Jayaramiah and others

6. The petitioner further submits that the second respondent herein has written a letter dated 24.01.2005 informing the Assistant Collector that the total acquisition of lands of 7.24.0 hectares were ready to return back to the land owners. Thereafter, the said fact of dropping of land acquisition proceedings in respect of Survey No.596 was also intimated to the District Collector by letter dated 07.04.2006. Pursuant to that the Sub Collector had issued a memo dated 12.09.2006 calling upon her to appear for enquiry to be held on 09.09.2006 for returning back the lands to the land owners. She submits that she has not received any compensation in respect of Survey No.596 so far.

7. The petitioner further submits that based on the report of

Sub Collector, the District Collector had also recommended for dropping of land acquisition proceedings in respect of Survey No.596 etc. Subsequently, the Special Commissioner and Commissioner of Land Administration had also recommended the proposal of re-conveyance to the first respondent herein by letter dated 25.06.2007.

8. The petitioner further submits that the Requisitioning Body for whose benefit the lands were acquired itself, does not require the land and decided to drop the land acquisition proceedings of their own accord. On coming to know the said facts, she made the representations to the Land Acquisition Officer requesting for re-conveyance of her land in Survey No.596, but shockingly the first respondent herein without assigning any reason or whatsoever decided to complete the land acquisition proceedings for the very same purpose for which it was acquired earlier. The said order of rejection of re-conveyance appears to have been passed by the first respondent herein on 02.07.2008 without issuing any notice to her. She is not aware of the said order till the first week of December 2009.

9. The petitioner further submits that the 2nd respondent himself decided to drop the land acquisition proceedings she made a representation dated 30.09.2008 to the Hon'ble Minister for Small Industries requesting him to re-convey the land in Survey No.596 on the basis of the proposal of the second respondent and was forwarded by recommendations of the Commissioner of land administration and second respondent therein, the first respondent herein has proceeded to complete the acquisition proceedings arbitrarily. The first respondent herein appears to have instructed the 3rd respondent herein to complete the acquisition proceedings in respect of Survey Nos.596 etc. The 3rd respondent herein by the communication dated 04.12.2009 requested the 4th respondent to hand over the lands in S.Nos.596 etc., to the Branch Manager, SIDCO, Hosur and effect necessary change of revenue records. She reliably learnt that the first respondent also passed an order accepting the proposal of the second respondent and the subject matter of land can be re-conveyed to the land owners. She stated that since all the authorities decided to drop the land acquisition proceeding in respect of Survey No.596 and she have been legitimately excepting that lands in Survey No.596 would be dropped and she can get back her lands for her livelihood. She is in possession of the lands in Survey No.596 (77 cents) as on today without any interruption or whatsoever. But the first respondent herein without considering the decision of the land Acquisition Officer, as well as the second respondent, has passed the impugned order of rejection.

10. The 2nd respondent submits that vide G.O.Ms.No.81 (Electronics Science and Technology Department) dated 18.02.1986 had

sanctioned the scheme for expansion of Electrical and Electronics Industrial Estate at Hosur at an estimated cost of Rs.20,00,000/- and in G.O.Ms.No.130, dated 02.11.1988, the Government have issued 4(1) notification for the acquisition of land to an extent of 9.90.5 Hectares of land in Hosur Village (Taluk) in Krishnagiri District. Initially, it was decided to acquire the above extent of lands for Industries and Commerce Department could not provide sufficient amount towards the cost of land, etc, so as to enable the Sub-Collector, Hosur/Land Acquisition Officer, to pass the award on 19.12.1991 and that the above department has requested the State Industries Promotion Corporation of Tamil Nadu Limited (SIPCOT) to take over the above lands in their favour. But SIPCOT did not come forward to take over this land, at this stage, the Tamil Nadu Small Industries Development Corporation Limited (SIDCO) had opted to take over the said land and was willing to pay the cost of the land etc (i.e) Rs.34,73,186/-. In this regard, the Industries Department Government of Tamil Nadu in the letter D.O.No.62063/SIE-2/91-3, dated 09.12.1991, the Chairman and Managing Director, SIDCO, Chennai, had been requested to pay the amount of Rs.34,73,185/- to the Land Acquisition Officer (Sub-Collector, Hosur) on behalf of the Industries Commissioner and Director of Industries and Commerce in advance towards passing of award in respect of the acquisition of 9.90.5 Hectares land.

11. The respondent further submits that the Revenue Divisional Officer, Hosur, had informed that as per the judgment of the following LAOP cases on 11.07.2001 by the Subordinate Judge, Hosur, and requested to pay the amount as noted against the individual LAOP cases.

S.No	LAOP No.	Amount
1	364/96	21,67,287/-
2	372/96	12,86,140/-
3	385/96	42,17,013/-

Necessary appeal was filed in the High Court, Chennai has detailed below:

S.No	LAOP No.	Amount
1	364/96	21,67,287/-
2	372/96	12,86,140/-
3	385/96	42,17,013/-

They have deposited a sum of Rs.75,95,035/- being the enhanced compensation Rs.71,02,386/- and the income tax Rs.4,92,649/- in the Subordinate Court, Hosur, in respect of LAOP cases 364/96 and 385/96 as detailed below through Sub Collector, Hosur, vide its letter RC.No.5953/37(B2), dated 07.05.2007.

S.No	LAOP No.	Enhanced compensation	Income Tax
1	384/96	24,11,131/-	1,67,147
2	385/96	46,91,255/-	3,25,502

In regard to LAOP No.372/96 in which enhanced compensation ordered by Subordinate Court on 11.07.2001 and appeal preferred in A.S.No.686/03 the enhanced compensation as ordered in the appeal was not deposited with the Court, Hosur, since the enhanced compensation awarded is found to be huge and a decision taken to withdraw the land acquisition in respect of 2.25.0 Hectares of land in S.No.576/B2, 593 and 596 and to get back the amount of Rs.6,58,908/- kept in the Subordinate Court, Hosur as deposit and passed a resolution No.181 of 200th Board meeting held on 01.03.2004 and their Head Office sent a proposal to the Secretary to Government, Small Industries (SIC) Department, Chennai vide letter No.34673/N2/91, dated 10.03.2004 requesting for issue of necessary orders to return the 2.25.0 hectares of land to the original owners. Whereas, Secretary to Government, Small Industries (SIC) Department, Chennai vide letter No.34673/N2/91, dated 10.03.2004, requesting for issue of necessary orders to return the 2.25.0 hectares of land to the original owners. Whereas, Secretary to Government in G.O.Ms.No.40/MSME (C) Department, dated 02.07.2008 ordered not to return the above extent of land and also directed to complete the land acquisition proceeding and to use the above land for SIDCO's scheme purpose.

12. She further submits that since, the proposal was not considered by the Government and based on the Government Order, the Chairman and Managing Director, SIDCO, Chennai, addressed the Land Acquisition Officer and Sub Collector, Hosur, to complete the land acquisition proceedings and handed over the 2.25.0 Hectares of land to SIDCO for utilization in letter RC.No.34673/N2/91, dated 10.07.2009 and pursuant to that the Revenue Divisional Officer, Hosur in memo No.5953/B2/87, dated 14.12.2009 given instructions to the Tahsildar, Hosur Taluk, to hand over 2.25.0 hectares of land in Survey Nos.576/B2, 593, 595 to SIDCO Branch Manager, Hosur. The above said land was handed over the possession to the Branch Manager, SIDCO, Hosur, on 14.12.2009 and the said lands were in effective possession of the SIDCO as on date. She further submits that the said property, to an extent of 77 cents in Survey No.596 in Hosur Village, as stated in the affidavit filed in the above writ petition said to be in peaceful possession and enjoyment of the petitioner had already been acquired and necessary award passed vide award of 4/91 on 19.12.1991 itself. The related objection said to be filed against enquiries under section 5(A) of the Act relates to 1st and 3rd respondent. She further submits based upon the resolution passed, the proposals seeking orders from Government sent by the SIDCO was not considered and ordered to complete the land acquisition

proceedings and ordered to utilize the land by SIDCO's scheme purpose in G.O.Ms.No.40/MSMEC Department dated 02.07.2008 and hence the 2nd respondent proceeded with further and taken over the said land from the Revenue Department.

13. She further submits that the land of an extent of 0.31.0 hectares of land in Survey No.596 covered under the LAOP No.372/96 related to Thirumathi K.Neelamma, who have now filed the above writ petition. Against the enhanced compensation ordered by the Subordinate Court, Hosur, necessary appeal had been filed in A.S.No.686 of 2003 in the appeal in C.M.P.No.11027 of 2003 in A.S.No.686 of 2003 it is ordered to deposit 50% of the compensation amount inclusive of interest and solatium within a period of 12 weeks from 01.12.2003 and the said amount was not deposited with the Subordinate Court, Hosur, and at that time, since SIDCO has sent a proposals to Government seeking orders to return the land to the owners duly withdrawing the land acquisition proceedings. Now, as the land of an extent was handed over, the Revenue Divisional Officer, Hosur, in letter No.Ref.5953/B2/87 dated 18.01.2010 requested to deposit a total amount of Rs.17,05,698/- towards the enhanced compensation including income tax as on 28.02.2010 duly furnishing the calculation sheet. The same were submitted to out head office vide our Branch Office letter RC.No.90/B/2003, dated 11.01.2010. She further submits that in the midst Tmt.Neelamma, related to 0.31.0 hectares of land in survey No.596 of Hosur Town and Village, Hosur Taluk and related to LAOP No.372/96, had filed the above writ petition during December 2009 and on 19.12.2009, this Court was pleased to pass an order granting interim injunction of dispossession if the petitioner is in possession. Whereas, the above said land was handed over to SIDCO on 14.12.2009 by the revenue authorities. She further submits that the allegation of the petitioner that the 2nd respondent written a letter dated 24.01.2005 to the Assistant Collector that the total acquisition of the lands 7.24.0 hectares were ready to return back to the land owners is utterly false. In the said letter dated 24.01.2005 requested the Assistant Collector, Hosur, since the statement as above mentioned in the affidavit filed in the Subordinate Court, Hosur, in connection with recall petition with pertaining to LAOP case Nos.367, 372 and 385/96 were not correct. The averment that compensation not received by the petitioner in respect of survey No.596, the amount as fixed by the land Acquisition Officer and Sub-Collector, Hosur, for entire extent of 9.90.5 hectares in the awarded No.4/91, dated 19.12.1991 was effected payment before passing award itself by the 2nd respondent to the land acquisition officer and Sub-Collector, Hosur, and after which only award has been passed.

14. She further submits that the enhanced compensation ordered in LAOP No.372/96 if Sub-Court, Hosur, for which requisition received by the Branch Manager, SIDCO, Hosur, from the Revenue Divisional

Officer, Hosur, in Letter Ref.No.59538/B2/87, dated 18.01.2010 arriving amount including interest solatium upto 28.02.2010 which was forwarded to the 2nd respondent vide letter Rc.No.90/B/2003 dated 11.01.2010. She further submit the said proposal was approved and the Branch Manager, the 3rd respondent herein was authorized to draw a sum of Rs.17,05,698/- by means of a cheque or DD and to hand it over to the Revenue Divisional Officer, Hosur, in order to deposit before the Subordinate Court under proceedings dated 12.02.2010 vide No.34673/N2/1991. She further submits that the impugned in G.O.Ms.No.40, dated 02.07.2008 and the consequent proceedings dated 04.12.2009, in Na.Ka.No.5953/87 (B2) issued by the 3rd respondent is sustainable in law and if the land acquisition proceedings were ordered to drop by this Court. The entire scheme proposed by the SIDCO in the total extent of land will be paralyzed and consequently affect the industrial growth of the backward areas of Hosur and each and every stage the proceedings were initiated following the due process of law. For the above said reasons, it is humbly prayed that this Court may be pleased to dismiss the above writ petition.

15. The highly competent senior counsel Mr.R.Bharath Kumar, appearing for the appellant submits that the petitioner had succeeded the subject matter of land to an extent of 77 cents situated at Hosur Village, comprised in Survey No.596 by registered settlement deed dated 26.04.1982. From the date of settlement, she is in physical possession and enjoying the said property. The learned senior counsel further submits that the 1st respondent has issued Government Order in the year 1988 for acquiring the subject land for the purpose of expansion of existing Electrical and Electronics Industrial Estate for the Tamil Nadu Small Industries Development Corporation. The respondent had conducted enquiry under section 5(A) of the Act, wherein objections were filed. Further, the Land Acquisition Officer had given declaration Under Section 16, after expiry of statutory period. The same was challenged before this Court and Subsequently, the writ petition was dismissed. The petitioner had obtained joint patta from the Tahsildar/4th respondent herein dated 03.09.1999. It clearly proves that the subject land still stands in the name of the Private individuals including the petitioner. Some of the land owners had filed enhancement petition before the concerned Subordinate Court and the same was allowed. Aggrieved by the said order, the requesting body had conducted board meeting and decided that the acquired lands have to be referred to the respective land owners in order to avoid payment of higher compensation.

16. As such, the respondents have dropped the acquisition proceedings in respect of lands comprised in Survey Nos.576/B2, 593 and 596. As such, the petitioner also is entitled to receive similar remedy. Further, the petitioner had not received any compensation so far. The Sub-Collector, District Collector and Special Commissioner, Land Administration have recommended to reconvey the

said land to the petitioner since the petitioner's land is not required for the purpose. The same was not considered by the 1st respondent, who rejected the same without assigning any valid reasons. Hence, the petitioner made another representation dated 30.09.2008 to reconvey the said land. The same was rejected and it was ordered to assign the land to the 2nd respondent herein. The very competent counsel further submits that the said land is still vacant and the revenue records stands in the name of the petitioner. Besides, in the 2nd respondent's board meeting dated 01.03.2004, a resolution No.181 had been passed; which is existing. As per the resolution, the petitioner is entitled to receive the land from the respondents. Hence, the highly competent senior counsel entreats the Court to set aside the impugned order.

17. The highly Competent Additional Government Pleader, Mr.M.S.Ramesh, appearing for the respondents 1,3 and 4 submits that the resolution had been passed, but it does not pertain to the petitioner's land. On the request of the 2nd respondent, the petitioner's lands and others land have been acquired for the purpose of formation of new Electrical and Electronics Industrial Estate at Hosur Village. The petitioner had not filed any petition before the Subordinate Court conceived for enhancement of compensation. Further, these respondents have observed all legal formalities and acquired the said land. The petitioner's land is absolutely required for the said purpose. Now, the subject matter of land is under the occupation of the 2nd respondent. Therefore, the petitioner's representation has been rejected.

18. The very competent counsel Mr.B.Manohar, appearing for the 2nd respondent submits that the 1st respondent had issued Government Order for acquiring the lands including petitioner's lands for the purpose of expansion of Electrical and Electronics Industrial Estate at Hosur. For acquiring the said land, the Government Order has been issued in the year 1988, in order to acquire land to an extent of 9.90.5 hectares. After observing all legal formalities under the Old Act, the compensation award had been passed. Further, the Land Acquisition Officer had sent communication to the 2nd respondent to take over the said land, against payment of Rs.34,73,186/-. The respondent had also paid enhanced compensation by way of deposit before the Subordinate Court. Under the circumstances, the petitioner's request cannot be considered. Hence, the very competent counsel entreats the Court to dismiss the above writ petition. Since the possession was handed over to the 2nd respondent on 14.12.2009. As such, the compensation has already been paid and possession had been taken over and hence the above writ petition is not maintainable.

19. On considering the facts and circumstances of the case and arguments advanced by the learned counsel on all sides and on perusing the typed set of papers, this Court is of the view that the

petitioner's lands had been handed over to the 2nd respondent on 14.12.2009. Besides, compensation amount had also been deposited. Hence, the impugned order passed by the 3rd respondent is confirmed. Hence, the above writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

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To

1.The Secretary to Government,
State of Tamil Nadu,
Micro Small and Medium Enterprises (C) Department,
Fort St.George, Chennai.

2.The Chairman-cum-Managing Director,
Tamil Nadu Small Industries Development Corporation Ltd.,
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Kathipara Junction, Chennai - 600 016.

3.The District Revenue Officer,
Hosur.

4.The Tahsildar,
Hosur Taluk Office,
Hosur.

1 cc to Mr. R.Bharath Kumar, Advocate Sr.No.42809

W.P.No.26474 of 2009
and

M.P.No.2 of 2009

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pmk.28.8.2015

सत्यमेव जयते

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