

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 21-12-2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WRIT PETITION Nos.25637 TO 25642 & 25717 TO 25721 OF 2008

Kumar	...Petitioner in W.P.25637 of 2008
Govindaraji	...Petitioner in W.P.25638 of 2008
Ellammal	...Petitioner in W.P.25639 of 2008
Chinna Ponnammal	...Petitioner in W.P.25640 of 2008
Kamalammal	...Petitioner in W.P.25641 of 2008
Mungilan Naicker	...Petitioner in W.P.25642 of 2008
Lakshmi	...Petitioner in W.P.25717 of 2008
Mani	...Petitioner in W.P.25718 of 2008
Balaraman	...Petitioner in W.P.25719 of 2008
Anbu	...Petitioner in W.P.25720 of 2008
Manickammal	...Petitioner in W.P.25721 of 2008

-vs-

- 1.The Secretary to the Government,
Industries Department,
Fort St.George,
Chennai.
- 2.The Special Tahsildar (Land Acquisition),
SIPCOT, Sriperumbadur,
Irrunkattukottai. ...Respondents in all WPs

Petitions are filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondents to disburse the compensation to the petitioner for the property situate at a. survey nos. 385/11 B, 385/14 B 393/4 measuring an extent of 0.40.0 0.17.0 hectares (in W.P.25637/08) b. Survey Nos. 393/10A 393/10B measuring an extent of 0.07.0.0.12.5 hectares in W.P.25638/08) , C. Survey Nos.373/3 measuring an extent of 0.34.5 hectares in W.P.25639/08) d. Survey Nos. 393/3A, 385/6A, 385/6B, 371/3 measuring an extent of 0.15.0, 0.55.0, 0.37.0, 0.38.0 hectares in W.P.25640/08) e. Survey Nos.391/3D measuring an extent of 0.49.0 hectares (in W.P.No.25641/08) f. Survey Nos. 371/5B, 371/4C, 371/4D measuring an extent of 0.55.5 0.20.5, 0.21.0 hectares (in W.P.25642/08) g. Survey No.391/1 measuring an extent of 0.68.0 Hectares (in W.P.25717/08) h. Survey No.385/17 measuring an extent of 0.71.0 hectares (in W.P.25718/08) i. Survey Nos.393/2, 393/3B, 382/2 measuring an extent of 0.54.0, 0.36.0 hectares (in W.P.25719/08) J. Survey Nos.374 measuring an extent of 0.79.5 hectares (in W.P.25720/08) K. Survey No.371/7 measuring an extent of 0.79.5 hectares (in W.P.25721/08) respectively of Santhavellore Village, Sriperumbadur.

For petitioner : Mr.V.Raghavachari

For respondents : Mr.R.Lakshminarayanan,
Addl.Govt.Pleader.

O R D E R

In all these Writ Petitions, the petitioners seek for a direction to the second respondent, to disburse the compensation payable to them, in respect of the property, which was acquired from them.

2. The lands have been acquired by the Government, by issuance of Section 4 (1) Notification of the Land Acquisition Act, 1894, in short, "the Act". The Government invoked urgency clause and dispensed with the inquiry under Section 5-A of the Act. Section 6 Declaration was also issued. As on date, there is no challenge to the acquisition proceedings, and the same have attained finality.

3. The only dispute in these Writ Petitions is, with regard to payment of compensation. Petitioners claim, that their names found place in the Notification, issued under Section 4 (1) of the Act. In this regard, learned counsel for the petitioners has referred to the Government Order, vide G.O.Ms.No.627, dated 29.07.1999, which is the Declaration, issued under Section 6 of the Act. By referring to the Notification, it is submitted, that the names of the land owners find place in the Notification, and, therefore, they are lawfully entitled to payment of compensation.

4. On three earlier occasions, the matter was listed before this Court, and, this Court directed the learned Additional Government Pleader, to file a counter affidavit.

5. Today, an official from the Office of the Special Tahsildar, Land Acquisition, SIPCOT, Sriperumbudur, second respondent herein, is present in the Court, and has produced a copy of the written instructions, issued by the second respondent.

6. Since the Writ Petitions are of the year 2008, this Court is of the view, that the matters cannot be kept pending any further, and, therefore, has proceeded to consider the case, based on the written instructions, given by the second respondent, which are in the form of a draft counter affidavit.

7. In the averments made in the said written instructions, it is admitted, that the land in Survey No.371/7, measuring 0.79.5 hectares, stands registered in the names of Anbu, Palani, Babu and Narayanan, in Patta No.721, in Santhavellore Village. It is stated, that from the details gathered from the Office of the Sub-Registrar, it came to light, that one of the said pattadars, namely, Anbu, along with his mother, Manickammal, has given Power of Attorney to one L.R.Sivaprasad, by way of a registered document, bearing No.59/88, who, in turn, is said to have sold the property in Survey No.371/7 to M/s.Chokhani Investment Ltd., by a registered sale deed No.629, dated

06.03.1992. It is further stated, that awards have been passed by the Land Acquisition Officer in Award No.9 of 2001, dated 13.08.2001, after which, the present petitions have been filed.

8. The second respondent would state, that the writ petitioners are not the owners of the land, and, therefore, intimation need not be sent to them. It is admitted, that in the Declaration issued under Section 6 of the Act, the names of the petitioners found place, and, this is sought to be explained, by stating that this has been done, based on the information available in the revenue records, i.e., the patta, adangal, chitta, maintained in the village, and the Notification issued under Section 4 (1) of the Act. Further, it is stated, that after getting details of encumbrances from the Sub-Registrar's Office, it came to light, that the property was purchased by M/s.Chokhani Investment Ltd., by a sale deed, dated 06.03.1992, and, therefore, notices under Sections 9 (3) and 10 of the Act were sent to the purchasers. It is also stated, that compensation was awarded in favour of the latest land owners. The second respondent would contend, that the petitioners are put to strict proof of the possession of original documents and also other relevant documents, in respect of the property in question, and their claim, that they are the owners, since the encumbrance reveals that the property has been sold. It is also stated, that the awardees' have not been impleaded in the Writ Petitions, and the order was passed in this batch of cases, on 24.08.2010, directing that an inquiry be held, after which, an inquiry is stated to have been held, and an endorsement was given to the writ petitioner on 20.09.2010, stating, that the award was passed on merits. Further, it is stated, that in another batch of cases, namely, W.P.Nos.26025 to 26033 of 2008, a common order was passed on 06.09.2011, directing the petitioners therein, to implead one Mr.Sanath Kumar, as third respondent, in whose favour the award was passed, but the petitioners therein did not comply with the said direction, and the impleading petitions were automatically dismissed, for non-payment of batta. Thus, it is stated, that in the absence of the person, who purchased the property, the relief sought for by the petitioners in the said writ petitions could not be granted and, therefore, the said Writ Petitions were dismissed.

9. From the above submissions made on behalf of the second respondent, it is clear, that both in the Notification issued under Section 4 (1) of the Act, and in the Declaration issued under Section 6 of the Act, names of the petitioners find place. But, the second respondent seeks to justify his action, by referring to the encumbrance certificates, which he has obtained from the Office of the Sub-Registrar. Further, it is stated, that an inquiry was conducted, pursuant to the interim direction issued by this Court on 24.08.2010, and, that "some endorsement was made". However, it is not clear, what was the endorsement made, and no record has been placed before this Court, regarding such endorsement.

10. Be that as it may, since the petitioners' names found place in the Declaration under Section 6 of the Act, it would have been appropriate for the second respondent to issue a notice to the petitioners also, while issuing notice under Sections 9 (3)

and 10 of the Act. Further, the second respondent chose to proceed solely, based upon the entries found in the encumbrance certificates, which, according to him, show that M/s.Chokhani Investment Ltd. purchased the land, by a sale deed, dated 06.03.1992. The Declaration under Section 6 of the Act was in July,1999. However, at that point of time, the said fact was probably not within the knowledge of the second respondent, and was not taken note of. Therefore, for all purposes, the second respondent ought to have issued notices to the petitioners also, and examined the case, after hearing the present land owner, namely, M/s.Chokhani Investment Ltd.

11. It is true, compensation has been finalised in the year 2001, and the award amount has been paid. Petitioners have approached this Court only in the year 2008. However, in order to ensure that compensation is paid to the actual owner, the second respondent is directed to issue notice to the petitioners as well as M/s.Chokhani Investment Ltd., hear the parties, after affording an opportunity of personal hearing, and pass orders in the matter afresh, in accordance with law, within a period of five months from the date of receipt of a copy of this order.

12. Writ Petitions are disposed of accordingly. No costs.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

dixit

To

1.The Secretary to the Government,
Industries Department,
Fort St.George,
Chennai.

2.The Special Tahsildar (Land Acquisition),
SIPCOT, Sriperumbadur,
Irrunkattukottai.

5 ccs to Mr.V. Ravhavachari, Advocate, Sr. 69080

6 ccs to M/s.V.Raghavachari, Advocate sr no 69079[25/5/16]

W.P.Nos.25637 TO 25642 &
25717 TO 25721 OF 2008

MSM (CO)
kk 11/1