

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.04.2016

Coram

The Hon'ble Mr. Justice T.S. Sivagnanam

Writ Petition No.25618 of 2015

M/s.Metal Forms Private Limited.

rep. by its Director Arjun Parthasarathy

...Petitioner

Vs.

1. The Government of Tamil Nadu,
rep. by the Joint Secretary to Government,
and Special Officer (Land Acquisition)
Public Works Department,
Fort St. George,
Chennai - 600 009.
2. The District Collector,
Thiruvallur District, Thiruvallur.
3. The Land Acquisition Officer and Special Officer (LA)
Chennai City Waterways Scheme,
Ambattur, Chennai - 600 053.
4. The Tahsildar,
Madhavaram Taluk Office,
Red Hills Road,
Madhavaram, Chennai - 600 060.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus directing the respondents i) to restore possession of three portions of the petitioner's industry lands, bearing S.F.No.25/2B, measuring 0.14.0 HAC, ii) S.F.No.21-B, measuring 0.29.0 HAC, iii S.F.No.21/A2 and 0.18.5 HAC, i.e. in total, 0.61.5 HAC (1.52 acres) situate in Thandal Kazhani Village, Ambattur Taluk, Chennai - 600 052, in its original position to the petitioner, and consequential direction, directing the first respondent to delete the entry of "Government Land", made by them in all the revenue and other Government Records and to re-enter its name

in all those records as its absolute owner, and iii pay a sum of Rs.1,31,328/- per month towards damages for their illegal occupation of the said portions till the date of such restoration to it within the time that may be stipulated by this Court.

For Petitioner : Mr.T.P.Manoharan Senior Counsel
for Mr.T.M.Naveen

For Respondents : Mr.R.Rajeswaran
Special Government Pleader

O R D E R

The petitioner has filed this Writ Petition, praying for issuance of a writ of mandamus i) to direct the respondents to restore possession of three portions of their industry lands, bearing S.F.Nos.25/2B, 21-B and 21/A2, which were acquired, ii) to delete the entry in the revenue records mentioning the property as Government Land and to re-enter the name of the petitioner in the revenue records and iii) to pay a sum of Rs.1,31,328/- per month towards damages for illegal occupation of their lands.

2. Though elaborate submissions have been made by the learned Senior Counsel for the petitioner and the learned Special Government Pleader for respondents, it is sufficient to take note of the following averments:-

i) The acquisition proceedings were initiated, acquiring vast extent of land, including the land owned by the petitioner for the proposed Canal, viz., Madhavaram Tank Right Surplus Course canal. Acquisition proceedings were put to challenge by the petitioner and other landowners before the Hon'ble Division Bench of this Court in W.P.Nos.36732 of 2006, etc. batch in (M/s.Metal Forms Private Limited Vs. The State of Tamil Nadu, rep. by its Secretary and another) and the Hon'ble Division Bench dismissed the Writ Petitions, by a common judgment, dated 27.04.2007, as against which, the petitioner preferred a Special Leave Petition in Civil No.12088 of 2007, wherein, the petitioner had challenged the order passed in W.P.No.11415/2005, which was also covered in the said batch of case. The Hon'ble Supreme Court, while entertaining the Special Leave Petition, passed an interim order on 30.07.2007, stating that the petitioner should not be dispossessed from the property, and the Special Leave Petition was tagged along with connected matters. The Special Leave Petitions were converted as Civil Appeals, viz., C.A.Nos.8700 of 2013, etc., in which, the petitioner's Appeal, in Civil Appeal No.8704 of 2013, was tagged along.

Ultimately, the Hon'ble Supreme Court, by a common judgment, dated 10.09.2014, disposed of the Civil Appeals and the same is reported in (2015) 3 SCC 353 in (Sree Balaji Nagar Residential Association Vs. State of Tamil Nadu and others) The operative portion of the judgment is extracted as hereunder:-

"Therefore, the conditions mentioned in Section 24 (2) of 2013 Act are satisfied for allowing the plea of the appellants that the land acquisition proceedings must be deemed to have lapsed in terms of Section 24 (2) of the 2013 Act. The appeals are disposed of accordingly. It goes without saying that the Government of Tamil Nadu shall be free, if it is so chooses to initiate proceedings of such land acquisition afresh in accordance with the provisions of the 2013 Act."

3. Thus, in the light of the judgment of the Hon'ble Supreme Court, referred supra, the acquisition proceedings, which have been initiated, acquiring the petitioner's land, are deemed to have lapsed in terms of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central 30 of 2013). It is not in dispute that till date, the Government has not exercised their right to issue fresh notification in accordance with the provisions of Act, 30 of 2013. Therefore, the petitioner has filed this Writ Petition for the aforementioned relief.

4. Though elaborate counter affidavit has been filed by the Special Tahsildar (Land Acquisition) Chennai City Water Ways Scheme, Ambattur, Chennai, it would be sufficient to take note of the averments made in para No.22 of the counter affidavit, wherein, the Special Tahsildar, while accepting that the acquisition proceedings have been held to have lapsed, a plea has been raised, stating that the Government has decided to prefer a Review Petition before the Hon'ble Supreme Court to review the order, dated 10.09.2014. Though the counter affidavit has been sworn to by the Special Tahsildar on 09.10.2015, till date, there is no record placed before this Court to show that such a Review Petition has been filed.

5. In the light of the above, the petitioner is entitled to two out of the three prayers, which they have sought for in this Writ Petition. Accordingly, the Writ Petition is partly allowed, and the respondents are directed to restore possession of the land, bearing S.F.Nos.25/2B, 21-B and 21/A2, situate in

Thandal Kazhani Village, Ambattur Taluk, Chennai. Consequently, there will be a direction to the fourth respondent to correct the revenue records by deleting the entry showing the land as Government land, and substitute the name of the petitioner. With regard to the prayer for payment for compensation towards damages for illegal occupation, liberty is granted to the petitioner to approach appropriate forum for necessary relief. The aforesaid direction be complied with by the respondents within a period of three months from the date of receipt of a copy of this order.

6. In the result, the Writ Petition is partly allowed, as stated above. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Government of Tamil Nadu,
rep. by the Joint Secretary to Government,
and Special Officer (Land Acquisition)
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Madhavaram, Chennai - 600 060.

+1 cc to Mr.T.P.Manoharan, Advocate, sr.21787

+2 ccs to The Government Pleader, sr.22135

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