

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.30148 of 2015 and
M.P. Nos.1 to 3 of 2015

1.M.G.Sundaramurthy
2.I.Vasumathi

... Petitioners

-vs-

1.The Government of Tamil Nadu,
rep. by its Secretary,
Adi-Dravidar and Tribal Welfare Department,
Fort St. George, Chennai-600 009.

2.The District Collector,
Chennai-600 001.

3.The Land Acquisition Officer and
Special Deputy Collector,
Land Acquisition Work,
Madras City, Chennai-600 005.

4.Desikanandapuram Adi-Dravidar
Co-operative House Site Society Ltd.
for Adi-dravidar,
Desikanandapuram Co-operative
House Site Society,
Old No.140, New No.25,
Dr.Ambedkar College Road,
Vysarpadi, Chennai-600 039.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the entire records of the first respondent pertaining to the Notification issued under Section 6 Declaration, Land Acquisition Act 1894 in G.O. Ms. No.1110 Adi Dravidar and Tribal Welfare Department dated 27.06.1990 and the third respondent pertaining to the Award No.3 of 1992 in R2-2270/83 dated 26.06.1992 in so far as it relates to the petitioner land comprised in S.No.506/2 part for an extent of 13 grounds (31,200 sq.ft.) situated in Purasaivakkam Perambur Taluk, Perambur Village, Chennai District and quash the same.

For Petitioners:: Mr.A.Kalaiselvan

For Respondents:: Mr.M.Elumalai,
Government Advocate
for R1 to R3

ORDER

The present writ petition has been filed challenging the Declaration issued under Section 6 of the Land Acquisition Act 1894 in G.O. Ms. No.1110 Adi Dravidar and Tribal Welfare Department dated 27.06.1990 by the third respondent pertaining to the Award No.3 of 1992 in R2-2270/83 dated 26.06.1992 in so far as it relates to the petitioners' land comprised in S.No.506/2 part for an extent of 13 grounds (31,200 sq.ft.) situated in Purasaivakkam Perambur Taluk, Perambur Village, Chennai District and to quash the same.

2.Learned counsel appearing for the petitioners would submit that even after the initiation of Land Acquisition Proceedings, till date, the respondents have not paid any compensation whatsoever. Secondly, they have not even taken physical possession, since the property has been in peaceful possession and enjoyment in favour of their principal vendors without any disturbance till date. Learned counsel for the petitioners, placing on record an order passed by the Hon'ble Division Bench of this Court in Writ Appeal Nos.1687, 2506, 2507, 2381 and 2382 of 2013 dated 05.04.2016, submitted that the very same Award No.3/1992 in R2/2270/83 dated 26.06.1992 had already been quashed.

3.Learned Government Advocate for the respondents 1 and 2 taking instructions from one Mr.Venkatraman, Tahsildar, Perambur, who was present in the Court, agreed to the submissions made by the learned counsel for the petitioners that the said Award No.3/1992 in R2/2270/83 dated 26.06.1992 has already been quashed by this Court and hence submitted that this writ petition also may be allowed on the same lines.

4.In view of the admitted position, it is pertinent to extract the relevant portion of the order of the Division Bench as under:

8.Further, the society contest only on the ground that the appellants in W.A. No.1687 of 2013 are subsequent purchasers. This very issue was considered in R.Rajaram and others vs. Secretary to Government, Housing and Urban Development Department, Fort St. George, Chennai and others, wherein it was held as under:

In view of the aforestated analysis, we are of the considered view that after passing of the award on 20 July 1994, the possession of the land remained with the land owners, which had passed on subsequently to the successors-in-interest and as such, the provisions of Section 24(2) of the 2013 Act would be attracted and consequently, the entire land acquisition proceedings shall stand lapsed. Thus, particularly, when the payment is not made to the land owners, the successors cannot be thrown out on the ground that they have purchased the property subsequently.

9.Resultantly, the writ appeal Nos.1687, 2506 and 2507 of 2013 filed by the land owners are allowed and the land acquisition proceedings initiated in respect of the appellants' land shall stand lapsed. In view of the above, the Writ Appeal Nos.2381 and 2382 of 2013 filed by the State are disposed of in terms of the decision in iGate Global Solutions Limited (supra).....

5.A perusal of the above clearly shows that the Award No.3/1992 was already quashed holding that no amount of compensation was made to the land owners. Therefore, when the Award No.3/1992 in R2/2270/83 dated 26.06.1992 itself was quashed by the Hon'ble Division Bench of this Court, this Writ Petition also challenging the same award, deserves to be allowed. Accordingly, the writ petition stands allowed in terms of the order passed by this Court. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

vga
To

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1.The Secretary to Government,
Adi-Dravidar and Tribal Welfare Department,
Fort St. George, Chennai-600 009.

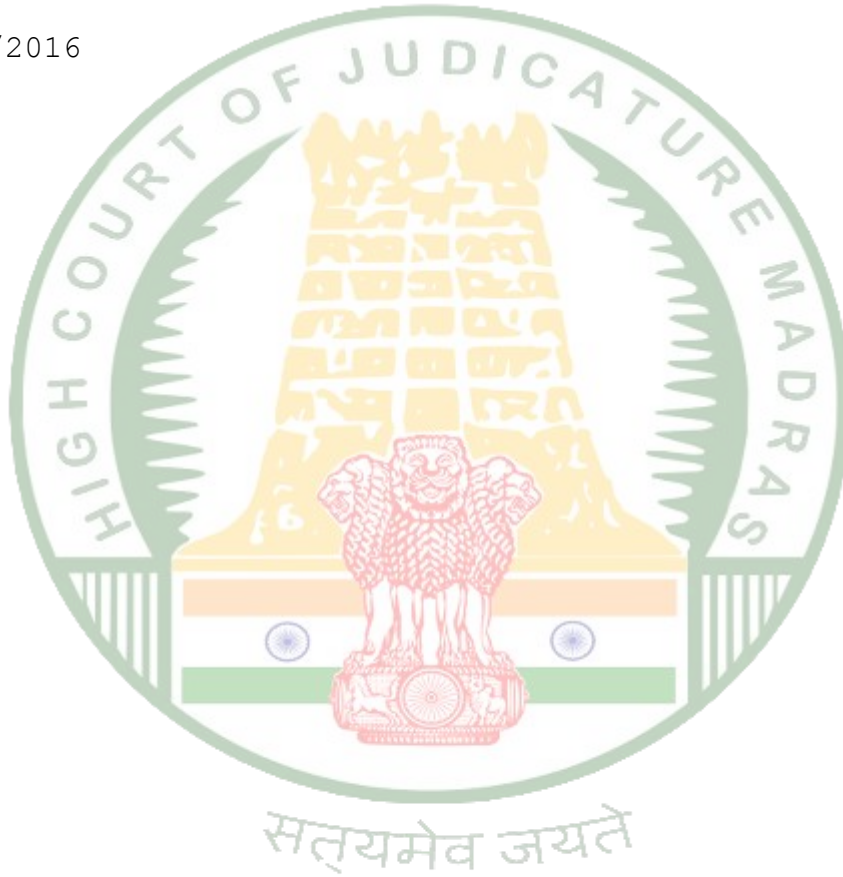
2.The District Collector,
Chennai-600 001.

3.The Land Acquisition Officer and
Special Deputy Collector,
Land Acquisition Work,
Madras City, Chennai-600 005.

+1cc to Mr.A.Kalaiselvan, Advocate Sr.71900
+1cc to the Government Pleader Sr.72390, 72246

W.P.No.30148 of 2015

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