

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.39625 of 2016

Oriental Hotels Limited
Rep by its Company Secretary
Having its Corporate Office at
No.47 Paramount Plaza
Mahatma Gandhi Road Chennai-600 034

[Petitioner]

Vs

- 1 The Government of Tamil Nadu
Rep by its Secretary
Highways and Minor Ports Department
Secretariat Chennai-600 009
- 2 The Government of Tamil Nadu
Rep by its Secretary Revenue Department
Secretariat Chennai-600 009
- 3 The Government of Tamil Nadu
Rep by its Secretary Ministry of Industries
Secretariat Chennai-600 009
- 4 The District Collector
Kancheepuram District Kancheepuram
- 5 The Commissioner
Land Administration Chepauk Chennai-600 005
- 6 The Divisional Engineer
TNRIDC LLA Buildings Chennai-600 002
- 7 The Special Tahsildar, Land Acquisition
Oragadam Industrial Infrastructure Scheme
Sriperumpudur Taluk
Kancheepuram District

[Respondents]

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents to fix and disburse compensation in respect of lands in S.No. 309/1, 309/2 and 305/4 at Pondhur Village, Sriperumpudur Taluk, Kancheepuram District under section 20(1) of Tamil Nadu Highways Act as per the representation sent by the petitioner dated 17.08.2016.

For Petitioner	..	Mr.R.Subramanian
For Respondents	..	Mr.T.M.Pappiah, SGP

ORDER

The writ petition has been filed for the issuance of a writ of mandamus to direct the respondents to fix and disburse compensation in respect of lands in S.No.309/1, 309/2 and 305/4 at Pondhur Village, Sriperumpudur Taluk, Kancheepuram District under section 20(1) of Tamil Nadu Highways Act as per the representation dated 17.08.2016.

2. The petitioner is the owner of large extent of lands bearing S.Nos.304/1A, 305/2, 305/1, 308/B, 309/1, 309, 309/2, 305/3, 543/2 and 543/3, measuring an extent of 4.54 acres at Pondhur Village, Sriperumpudur Taluk, Kancheepuram District. Including the petitioner's lands, large extent of lands were acquired by the State Highways Department for widening of the State Highway Road (HN2). It is the case of the petitioner that publication of gazette notification specifying the description of such land under Section 15(1)

of the Tamil Nadu Highways Act (hereinafter referred to as the Act) and prior notice under Section 15(2) of the Act before issuance of such notification under Section 15(1) to the owners are mandatory. Further, after hearing the objections of the owners, an order has to be passed under Section 15(3) of the Act. Without adhering to any of the said provisions of the Act, an award was passed under Section 19(5) and 19(7) of the Act.

3. It is the further case of the petitioner that the publication is said to have been made on 26.08.2009, after which, the petitioner came to know about the award passed and after making enquiries with the 7th respondent, submitted his objections and filed a petition on 23.11.2014 before the 4th respondent for enhancement of award amount. Since there was no response, the petitioner filed W.P.No.2661 of 2015 for directing the respondents therein to consider and pass orders on the representation dated 25.11.2014 and fix the compensation under Central Act 30 of 2013, after following the due process of law. Subsequently, the petitioner, got an order from this Court on 04.02.2015 in the said writ petition, directing the respondents to pass orders on the said representation. Thereafter also, since there was no response, the petitioner, gave a notice to the District Collector on 04.07.2015. However, the petitioner gave consent for receiving the compensation fixed under Award No.7 of 2012 dated 28.03.2012. The District Collector, issued proceedings dated

02.07.2015 stating that payment of compensation payable to the petitioner either under the new Act or Old Act would be decided separately as acquisition proceedings have to be completed urgently. Thereafter also, the acquisition proceedings have not been initiated under the new Act.

4. The award was passed on 28.03.2012 and the petitioner agreed to receive the compensation amount, without prejudice. On 04.07.2016, the petitioner received the communication from the 7th respondent stating that the award amount for Survey Nos. 309/1, 309/2 and 305/4 has been fixed at Rs.16,94,639/- and the same has been received by the petitioner. Since the compensation was paid only after passing of the new Act, the amount payable to the petitioner should be decided as per the new Act, otherwise, proceedings are deemed to have been dropped under Section 24 of the new Act. Therefore, giving a representation on 17.08.2016 to the respondents 4 and 7, the petitioner has approached this Court.

5. Heard Mr.R.Subramanian, learned Counsel appearing for the petitioner and Mr.T.M.Pappiah, learned Special Government Pleader, who accepts notice on behalf of the respondents.

6. Since the prayer in the writ petition is to issue a writ of mandamus to direct the respondents to fix and disburse compensation in respect of lands in S.No. 309/1, 309/2 and 305/4 at Pondhur Village Sriperumpudur Taluk Kancheepuram District under section 20(1) of Tamil Nadu Highways Act as per the representation dated 17.08.2016, there is no necessity for the respondents to get instructions, as the respondents are to be directed to pass orders as per law.

7. Though proceedings have been initiated earlier and the award was passed as early as on 28.03.2012, the compensation was actually paid on 04.07.2016. Therefore, this Court, without going into the merits of the case, directs the respondents 4 and 7 to consider the petitioner's representation dated 17.08.2016, with regard to application of new Act for payment of compensation in respect of lands in S.No. 309/1, 309/2 and 305/4 at Pondhur Village Sriperumpudur Taluk Kancheepuram District, and pass orders on merits and as per law, after giving due opportunity to the petitioner, within a period of twelve weeks from the date of receipt of a copy of this order. The writ petition is disposed of with the above direction. No costs.

14.11.2016

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N.KIRUBAKARAN, J

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To

- 1 The Secretary
Government of Tamil Nadu
Highways and Minor Ports Department
Secretariat Chennai-600 009
- 2 The Secretary
Government of Tamil Nadu
Revenue Department
Secretariat Chennai-600 009
- 3 The Secretary
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Ministry of Industries
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- 4 The District Collector
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