

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 23.10.2017

Delivered on : 03.11.2017

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A No.1016 of 2017 and

CMP No.14283 of 2017

- 1.The Government of Tamil Nadu
Rep. by its Joint Secretary to Government and
Special Officer (Land Acquisition)
Public Works Department,
Fort St.George, Chennai - 600 009.
- 2.The District Collector
Tiruvallur District,
Tiruvallur.
- 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. ... Appellants

Vs

M/s.Metal Forms Private Limited
Rep. by its Director Arjun Parthasarathy
459, GNT Road,
Thandal Hazhani Village,
Vadkari Post, Chennai - 600 052. ... Respondent

Prayer:- Writ Appeal filed under clause 15 of the Letter Patent against the order dated 06.04.2016 made in W.P.No.25618 of 2015, Writ petition filed u/s 226 of the constitution of India, to issue a Writ in the nature of a Writ of Mandamus or any other appropriate Writ, direction or order, directing the Respondents to (1) restore possession of the above 3 portions of our Industry Land (i) bearing S.F.No.25/2B and measuring 0.14.0 HAC., (ii) bearing S.F.No.21-B and measuring 0.29.0 HAC. and (iii) bearing S.F.NO.21/A2 and 0.18.5 HAC i.e., in total 0.61.5 HAC (1.52 Acres) situated in Thandal Kazhani Village, Ambattur Taluk, Chennai-600 052 in its original position to the Petitioner, (2) delete the entry of "Government Land" made by them in all the Revenue and other

Government Records and re-enter its name in all those Records as its absolute owner and (iii) pay a sum of Rs.1,31,328/- p.m. towards damages for their illegal occupation of the said portions till the date of such restoration to it, within the time that may be fixed by this Honble Court.

For Appellants : Mr.V.Ayyadurai
Additional Advocate General II
Assisted by
Mr.A.Zakir Hussain, Govt.Advocate

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

J U D G M E N T

The land owned by the respondent was acquired by the State of Tamil Nadu along with the adjacent lands for development of Madhavaram Tank Right Surplus Course Canal. The writ petition filed by the land owners were dismissed by the High Court. The matter was taken up before the Hon'ble Supreme Court. The Supreme Court allowed the civil appeals and quashed the land acquisition proceedings. The judgment is reported in (2015) 3 SCC 353 [Sree Balaji Nagar Residential Association v. State of Tamil Nadu and others]. Since the land acquisition was quashed, the respondent filed a writ petition before this Court in W.P.No.25618 of 2015 for mutation of revenue records and re-enter its name in all the relevant records. The writ petition was allowed by the learned single Judge. Feeling aggrieved, the appellants are before this Court.

2. The learned Additional Advocate General contended that in the case of the respondent, the Land Acquisition Officer deposited the compensation amount in revenue deposit on account of the failure to accept the compensation, even after issuing notice. The learned Additional Advocate General by placing reliance on Section 31 of the Land Acquisition Act, contended that since there was no express consent given by the respondent to receive the compensation, the Land Acquisition Officer rightly deposited the amount in revenue deposit. The learned Additional Advocate General further contended that the Hon'ble Supreme Court had no occasion in Sree Balaji Nagar Residential Association (cited supra) to consider the merits of each of the writ petitions and as such, the issue requires to be decided by this Court on merits. It was further contended that the correctness of the law laid down in Sree Balaji Nagar Residential Association was doubted by a subsequent Bench and as such, it was referred to a larger Bench. It was contended that the requisitioning body has already taken possession of the land and certain constructions were also made. This aspect was not considered by the Hon'ble Supreme Court and the appeal filed by the respondent was disposed of along with other appeals notwithstanding the fact

that the factual position differed in material particulars.

3. The learned Senior Counsel for the respondent contended that similar argument was advanced before the Hon'ble Supreme Court by the learned Additional Advocate General. However, the Supreme Court rejected the said contention. Therefore, it is not open to the appellants to canvass such arguments before this Court.

4. There is no dispute that the respondent was also a party before the Hon'ble Supreme Court in Sree Balaji Nagar Residential Association case. The challenge before the Supreme Court was to the order dated 27 April 2007. The Supreme Court while quashing the land acquisition proceedings referred to the arguments advanced on behalf of the State of Tamil Nadu by the learned Additional Advocate General that compensation has been deposited in several cases with the Civil Court and in some cases, payments have been accepted by the land owners. The Supreme Court rejected the contention taken by the State with regard to the deposit of compensation and handing over possession. Since the appeal filed by the respondent was decided along with the connected appeals, resulting in quashing the land acquisition proceedings, it is not proper on the part of this Court to take up the merits of the matter once again and adjudicate as to whether the possession of the subject land is still with the appellants. Similarly, it is not open to this Court to consider the arguments advanced by the learned Additional Advocate General with respect to Section 31 of the Land Acquisition Act. There is no question of interpreting Section 31 of the Land Acquisition Act in the subject case, in view of the order passed by the Supreme Court quashing the entire proceedings initiated in respect of the land owned by the respondent. In view of the binding decision in Sree Balaji Nagar Residential Association, we are not in a position to consider the request made by the learned Additional Advocate General to decide the two issues raised by the State viz., possession and deposit.

5. The learned single Judge allowed the writ petition taking into account the order passed by the Hon'ble Supreme Court. The learned single Judge was correct in issuing the writ on account of the order passed by the Hon'ble Supreme Court quashing the entire proceedings. We therefore do not find any reason to interfere with the order passed by the writ court.

6. In the result, the intra court appeal is dismissed.
No costs. Consequently, connected miscellaneous petition is closed.

svki

sd/
ASSISTANT REGISTRAR

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

To,

- 1.The Joint Secretary to Government and
Special Officer (Land Acquisition)
Public Works Department,
Fort St.George, Chennai - 600 009.
- 2.The District Collector
Tiruvallur District,
Tiruvallur.
- 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.

+1CC to Govt Pleader SR.NO.78257

+1CC to Mr.K.P.JOTHEESWARAN Advocate SR.NO.78231

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KJI [CO]
MK:29/11/2017