

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2017

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.No.10934 of 2016

P.Nandagopal Naidu

.. Petitioner

Vs.

1.The District Collector,
Kanchipuram District,
Collectorate Campus,
Kanchipuram.

2.The Land Acquisition Officer cum
Special Tahsildar (LA),
SIPCOT Tacid Division,
Oragadam Scheme, Irungattukottai,
Sriperumbudur Taluk,
Kanchipuram District.

3.The Managing Director,
State Industries Promotion
Corporation of Tamil Nadu
Ltd., (SIPCOT),
No.19-A, Rukmani Lakshmipathy
Road, Egmore, Chennai - 8.

.. Respondents

(R3 impleaded vider order dated
14.07.2016 made in W.M.P.No.
14647 of 2016 in W.P.No.10934
of 2016)

Petition filed under Article 226 of The Constitution of India praying to issue a writ of declaration to declare the land acquisition proceedings initiated under the Act 1 of 1894 in respect of his lands in S.No.430/1 to an extent of 1.08 acres in No.212, Panruti B Village, Sriperumbudur Taluk, Kanchipuram District, in Award No.3/2000 Na.Ka.No.56/98 dated 31.05.2001 on the file of the second respondent had lapsed as the compensation has not been deposited in the account of the beneficiaries or in a civil Court as required under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 30 of 2013.

For Petitioner .. Mr.Y.Jyothish Chander
For Respondents .. Mr.S.Diwakar,
Spl. Govt. Pleader for R1 & R2
Mr.Ramesh Venkatachalapathy
for R3

ORDER

The petitioner, whose land was acquired pursuant to the Notification issued in G.O.Ms.No.102 Industries Department dated 27.01.1999 followed by the declaration in G.O.Ms.No.459 Industries Department dated 10.06.1999, has come forward to file this writ petition, seeking compensation under Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 30 of 2013 (for short 'Act 30 of 2013').

2.After the declaration, the award enquiry was conducted on 22.12.1999, 13.01.2000, 07.02.2000 and 06.03.2000. Though the petitioner did not appear for the enquiry, an award was passed in Award No.3 of 2000 dated 31.05.2001. The compensation amount was deposited in the Sub Treasury, Tambaram. The possession of the land was taken.

3.Learned counsel appearing for the petitioner would submit that as per the mandate of the Apex Court in Pune Municipal Corporation Vs. Harakchand Misirimal Solanki (2014 (1) CTC 755), in view of the non-compliance of Sections 30 and 31 of the Land Acquisition Act, 1894, by depositing the award amount before the Sub Court, the petitioner is entitled for computing the compensation under the new Act viz., Act 30 of 2013. It is submitted that for the nearby land, though no award was passed, the respondents have followed the new Act, as seen from the proceedings of the Land Acquisition Officer cum Special Tahsildar in Na.Ka.No.20/98 (LA) dated 11.09.2016.

4.Learned counsel appearing for the respondents would submit that the petitioner, having not attended the enquiry, has come belatedly and sought for the relief. Reliance has been made on the judgment of the Apex Court in Ram Singh and Others Vs. Jammu Development Authority and Others (CDJ 2017 SC 278).

5.Section 24 of Act 30 of 2013 speaks about the acquisition made and concluded five years prior. In the case on hand, the award has been passed in the year 2000 itself. Secondly, it is not in dispute, as seen from the document filed by the petitioner and accepted in the counter affidavit filed by

respondents 1 and 2, that the compensation amount has not been deposited in the Court but only in the Treasury. Thus, there is no compliance of Sections 30 and 31(2) of the Land Acquisition Act, 1894. Law has been settled in this regard by the Apex Court in Pune Municipal Corporation Vs. Harakchand Misirimal Solanki (2014 (1) CTC 755), wherein it has been held as under:

19. Now, this is admitted position that Award was made on 31.01.2008. Notices were issued to the landowners to receive the compensation and since they did not receive the compensation, the amount (Rs.27 crores) was deposited in the Government Treasury. Can it be said that deposit of the amount of compensation in the Government Treasury is equivalent to the amount of compensation paid to the landowners/persons interested? We do not think so. In a comparatively recent decision, this Court in Ivo Ivo Agnelo Santimano Fernandes and Ors. V. State of Goa and Anr., 2011(11) SCC 506, relying upon the earlier decision in Prem Nath Kapur V. National Fertilizers Corpn. Of India Ltd., 1996(2) SCC 71, has held that the deposit of the amount of the compensation in the State's revenue account is of no avail and the liability of the State to pay interest subsists till the amount has not been deposited in Court.

20. From the above, it is clear that the Award pertaining to the subject land has been made by the Special Land Acquisition Officer more than five years prior to the commencement of the 2013 Act. It is also admitted position that compensation so awarded has neither been paid to the landowners/persons interested nor deposited in the Court. The deposit of compensation amount in the Government Treasury is of no avail and cannot be held to be equivalent to compensation paid to the landowners/persons interested. We have, therefore, no hesitation in holding that the subject land acquisition proceedings shall be deemed to have lapsed under Section 24(2) of the 2013 Act.

6. Reliance made by the learned counsel appearing for the third respondent on a recent judgment rendered by the Apex Court in Ram Singh and Others Vs. Jammu Development Authority and

Others (CDJ 2017 SC 278) does not have an application since the Apex Court did not consider the earlier judgment rendered in Pune Municipality's case (cited supra). Secondly, the issue involved therein was different viz., the question of quashing the proceedings on the basis of possession. The provisions contained in Sections 30 and 31(2) of the Land Acquisition Act were also not considered nor the scope of Section 24(2). Thus the said judgment does not have any application.

7. In such view of the matter, this writ petition stands allowed. Consequently, the respondents are directed to compute the compensation payable to the petitioner as per Section 24(2) of Act 30 of 2013, however, it is made clear that this order will not have any bearing on the acquisition proceedings as such except the issue pertaining to compensation alone. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mmi

To

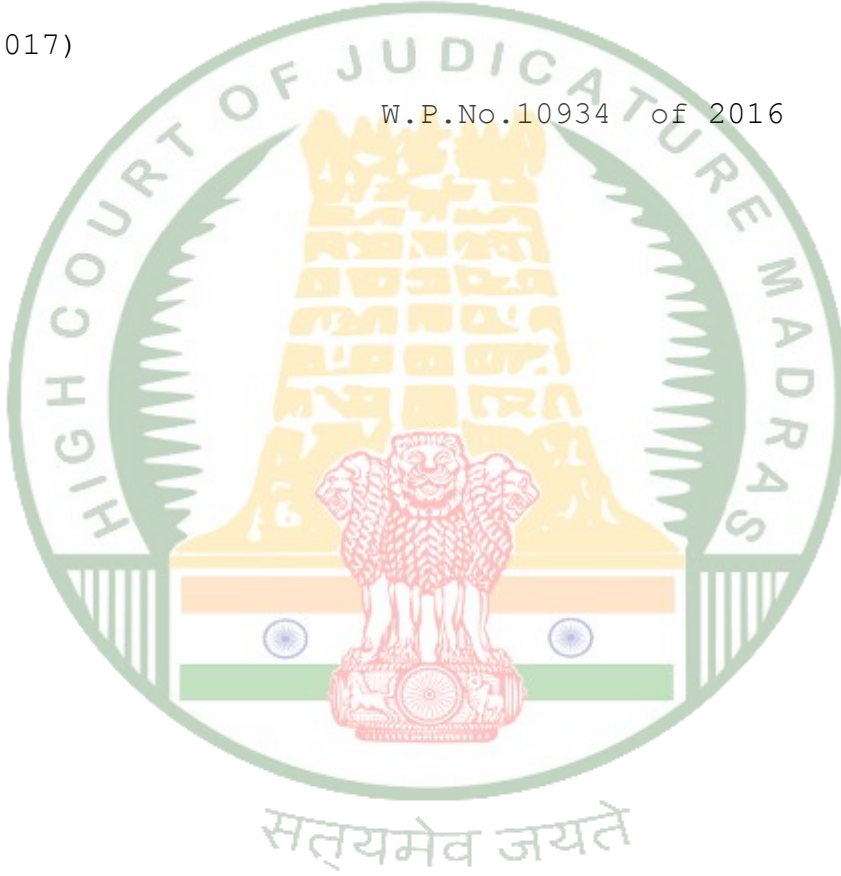
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+1cc to Mr.Jyothish Chandar, Advocate, S.R.No.19144
+1cc to Mr.Ramesh Venkatachalapathy, Advocate, S.R.No.19667

scd(CO)
md(11/04/2017)

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