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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.12.2017

CORAM :

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

and

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

WA.Nos.153 and 154 of 2016

CMP.Nos.2241 to 2243 of 2016

1. V.Padmanabhan
2. A.Ponnusamy
3. R.Krishnamoorthy
4. A.Veeraraghavan
5. K.Muthu
6. V.Govindaraj
7. V.Mancikam (deceased)
8. M.Govindaraj
9. K.Sudharsaan
10. A.Seeman
11. R.Devaraj
12. R.Naranasamy
13. Lakshmi
14. Vijayan
15. Kamaraj

Appellants 13 to 15 are substituted as
legal heirs of the deceased 7th appellant
vide CMP.No.455 of 2018 dated 14.12.2017

.. appellants in WA.No.153 of 2016

1. M.Swaminathan (deceased)
2. S.Nirmala
3. S.Dhasarathan
4. M.Navaneetham
5. S.Rohini
6. S.Pushpa Rani
7. S.Sugumar

appellants 2 to 7 are brought on record as
legal heirs of the deceased sole appellant vide
CMP.No.21120 of 2017 dated 04.12.2017

.. appellants in WA.No.154 of 2016

vs.



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1.The Secretary to Government,
Industries Department,
State Secretariat, Fort St.George,
Chennai-9.

2.The District Collector,
Office of the District Collector at Kancheepuram,
Kancheepuram District,
Tamil Nadu.

3.The Special District Revenue Officer,
Land Acquisition Office,
SIPCOT Extension Project (oragadam)
No.39-A, CSI School Lane, Nehru Street,
Sriperambudur - 602105.
Kancheepuram District,
Tamil Nadu.

4.The Chairman cum Managing Director, SIPCOT,
No.19-A, Dr.Rukumani Lakshmipathi Road, Egmore,
Chennai-8, Tamil Nadu.

5.The Special Officer cum Director of
Rural Development,
Tamil Nadu Bhoodan Board,
Panagal Maligai Building,
Saidapet, Chennai.

6.The Special Tahsildar (LA)
Oragadam SIPCOT Expansion planning unit,
Sriperambudur, 602105.
Kancheepuram District,
Tamil Nadu.

7.The Tahsildar, Land Acquisition Office,
SIPCOT Extension Project (Oragadam),
No.39-A, CSI School Lane,
Nehru Street, Sriperambudur, 602105.
Kancheepuram District,
Tamil Nadu.

.. Respondents in both the appeals

PRAYER : Appeals are filed under clause 15 of Letters patent,
to set aside the common order dated 20.11.2008 made in
WP.Nos.13093 and 17307 of 2008.



PRAYER WP.13093 OF 2008

Writ Petition filed Under Article 226 of the Constitution of India praying this court issue a writ of mandamus directing respondents to proceed with the eviction proceedings after issuing notice of opportunity enabling the petitioner to raise objections, pursuant to the G.O.Ms.No. 139, Industries (MID-II) Department, dated 3.11.2006 passed by the first respondent in respect of the agricultural lands to an extent of 2 acres comprised in Survey No. 49/1A/6B of Oragadam Village, Sriperumbudur Taluk, Chengleput District, so far as the petitioner is concerned.

PRAYER WP.17307 OF 2008

Writ Petition filed Under Article 226 of the Constitution of India praying this court issue a writ of mandamus calling for the records comprised in G.O.Ms.No.187, Industries (SIPCOT-LA) 4 July 2007 issued under section 3(1) of the Tamilnadu Land Acquisition for Industrial Purposes Act, 1997 and quash the same as illegal and consequently forbear the respondents from proceeding any further pursuant to the said G.O. in respect of the petitioners agricultural land comprise in Old Survey No.49/1A/6B and New survey No.172 situated at Alamelumangapuram, Oragadam, Sriperumbudur taluk, Kancheepuram district.

For appellants : Mr.R.Venkatesan,
in both the appeals.

For respondents : Mr.A.Srijayanthi, Spl.GP.
for R1 to R3 and R5 to R7
in both the appeals.

COMMON JUDGMENT

P. VELMURUGAN, J.

This appeal is filed against the common order dated 20.11.2008 passed by the learned single judge in WP.Nos.13093 and 17307 of 2008. Since the issue involved and the relief sought for in both the writ appeals are one and the same, the appeals were heard together and are disposed of by this common judgment.

2. The case of the appellants/petitioners in the writ petition are as follows :-

The appellants and their forefathers were held as bonded agricultural labourers by the landlords for several decades. The appellants were given two acres of agricultural lands in S.No.49/1A/6B of Oragadam village, Sriperambudur Taluk, Chengalpattu District. The land owners voluntarily handed over



their respective holdings of agricultural lands for the benefit of landless persons to an extent of 12.30 hectares. According to the appellants, they are the beneficiaries of two acres of land under the Bhoodan Land Scheme from the 5th respondent, who granted the land in the year 1959. The said claim is made by the appellants on the basis of a letter issued by the second respondent dated 23.05.1996, which directs the Additional Collector (Development and project officer), District Rural Development Agency, Kancheepuram to arrange for distribution of the deeds in consultation with the 5th respondent.

3. It is the case of the appellants that all of a sudden and without giving any opportunity or serving any notice to vacate, the respondents initiated action to dispossess them by acquiring the lands under the provisions of the Tamil Nadu Acquisition of Lands for Industrial Purposes Act, 1997 (Tamil Nadu Act 10 of 1999) for the expansion of the existing industrial complex. The appellants are landless agriculturists belonging to the schedule caste community. The grievances of the appellants are that notices under Section 3(2) of the Act were not served on them and they came to know about the acquisition only when the respondents attempted to dispossess them by levelling the land.

4. It is stated that the respondents failed to examine the factors such as ancestral agricultural properties of the landless Adi Dravidars, agricultural activity in progress, availability of nearby lakes and social reserve forest area and report about the soil. The appellants also contended that the notification issued is also illegal for want of approval from the Board constituted in terms of section 3 and 4 of the Special Economic Zones Act, 2005 (Central Act 28 of 2005) and notification by the Central Government, declaring the area as special Economic Zones, besides violations of the provisions contained in the Tamil Nadu Special Economic Zones (special provisions) Act, 2005 (Tamil Nadu Act 18 of 2005). It is also alleged in the affidavit that without serving any notice under section 3(2) of the Act, final notification was issued under Section 3(1) of the Act, 1997.

5. The respondents filed counter affidavit in both the writ petitions, wherein it is stated as follows :-

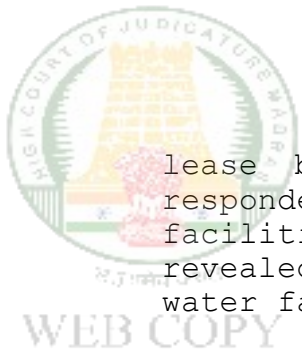
The Government accorded administrative sanction for acquiring 360.97.5 hectares of patta lands and alienation of 39.90.0 hectare of poramboke lands in Oragadam and Chennakuppan villages under the provisions of the Tamil Nadu Act 10 of 1999 for the expansion of the existing industrial complex vide GO.Ms.No.139 Industries (MIG-II) Department dated 03.11.2006. The appellants are not land owners. The Bhoodan Board is the owner of the said lands as per the revenue records and even



today, the title stands in the name of the Bhoodan Board. Proposals were forwarded to the Government by the Collector to acquire the lands and notices in Form-A and Form-B were issued under Section 3(2) of the said Act to the owners and persons interested on 02.02.2007. Form-A notices were sent by registered post and Form-B notices were affixed in the offices of the District Collector by giving thirty days time for submitting objections and by intimating the date of enquiry as 20.03.2007. The public were also informed by way of tom-tom on 02.02.2007.

6. The public hearing was conducted on 20.03.2007 and the objections were considered. The acquired lands are developed into industrial plots by forming roads, providing street lights, drainage system and water supply. The 4th respondent/SIPCOT only grants leasehold rights in respect of the plots allotted and retains the title of the land. The allottees are prevented from sub-leasing or alienating their leasehold right without the consent of the 4th respondent. The SIPCOT is collecting maintenance charges from the allottees to maintain the street lights and other common facilities. The lands were allotted to the appellants by the fifth respondent. The lands distributed to the representatives of the Vinobaji, before formation of the Bhoodan Board was published in the Government Gazettee and Dhanapatra was also approved by the Board as per the provisions of the Tamil Nadu Bhoodan Yagna Act, 1958. Accordingly, an extent of 12.30.0hectares in S.No.172 (old S.No.49/1A6B) of Oragadam Village was acquired by the fifth respondent. The legal Dhanapatra was not issued to any person by the Bhoodan Board. The representation of the appellants were received on 09.05.2008 and it was forwarded to the first respondent for clarification. The 5th respondent by letters dated 16.05.2008 and 17.05.2008 informed that no Dhanapatra was issued to anyone in respect of the lands covered under the writ petition. In the absence of distribution of documents/dhanapatra, the appellants cannot claim any right of ownership over the subject lands. The Bhoodan Board is the registered owner, as per revenue records and notice in Form-A under Section 3(2) was issued to the Board and the Board also gave no objection for acquisition. The appellants are not the owners of the lands, and they are not to be treated as interested persons and they have also not objected to the acquisition after the issuance of Form-B notice under Section 3(2) of the Act. The appellants have not made any objections before the authorities, and hence, they are not entitled to challenge the notification.

7. After the receipt of the representation dated 13.03.2008, notices were issued to attend the enquiry on 10.04.2008 and the said notices were refused to be received by the appellants. The SIPCOT has allotted the lands to the entrepreneurs on 99years of



lease basis without parting the title of the lands. The respondents further states that there is no irrigation facilities for cultivating crops. On inspection, it was revealed that the land is not fit for cultivation as there is no water facility and no boundaries.

8. The learned single judge after hearing the arguments of both sides, dismissed the writ petitions with liberty to the appellants to agitate their claim for compensation once the second respondent refer the dispute for the decision of the Court.

9. Aggrieved against the common order passed by the learned single judge in WP.Nos.13093 and 17307 of 2008 dated 20.11.2008, the appellants have preferred the present writ appeals.

10. Heard the learned counsel on either side.

11. It is not in dispute that originally the land was donated to Bhoodan Board and the same was notified in the State Gazette dated 19.05.1965 and in the District Gazette dated 10.04.1968. The Bhoodan records would show that the subject land is vested with the Bhoodan Board. Admittedly, no document is produced by the appellants to prove that the lands have been allotted to them. The respondents also admitted that notices were not served on the appellants, since they were not the owners of the property. Though, the appellants challenged the acquisition proceedings, they have not produced any documents to show that the lands were allotted to them. The Bhoodan Board is the owner of the subject land. The patta stands in the name of Bhoodan Board. Dhanapatras were not executed in favour of the appellants or other beneficiaries at any point of time. Therefore, the presumption is that the Bhoodan Board is the owner of the property. The land is already acquired under the Tamil Nadu Acquisition of Lands for Industrial Purposes Act, 1997 by following the procedure as contemplated under the Act. The acquired land was utilised for the expansion of existing industrial complex.

12. A perusal of the typed set of papers filed by the appellants reveals that the District Collector/second respondent in his proceedings dated 23.05.1996 passed the following orders :-

"Thiru.Manikam and 12 others of Sennakuppam village, Sriperumbudur Taluk, Chengalpattu MGR District have requested to issue land Distribution Deed in their favour, as they have lost their original deeds, perusal of the Bhoodan Board's file 441/Bhoodan reveals that the land in S.No.49/1A6B measuring 30.40 acres



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situated in Oragadam Village, Sriperumbudur Taluk Chengalpattu MGR District was earmarked to the Adi Dravidars of Sennakuppam and that it was distributed to 12 persons by Tamil Nadu Bhoodan Board. One of the land distribution deed dated 03.06.1959 produced by one Thiru.Kali, son of Appu reveals that Bhoodan Board has actually issued land distribution deeds in favour of the applicants at the rate of 2.00 acres each during 1959. (Copy of the deed is enclosed). Original deed is perused by me.

2. It is seen from the Adangals of above said Oragadam Village, that the applicants have been cultivating the above land by raising dry crops (Ragi and Varagu) for more than two decades.

3. And also inspection of the land by me on 14.05.1996, reveals that only dry crops are being raised. If well irrigation is provided the entire land can be raised with dry crops and as well as wet crops. DR 6A can under take a joint irrigation system by providing Jeevandhara Wells by forming a society of farmed under the societies Registration Act and DWCRA by women.

4. In the above circumstances the Additional Collector (Dev.) and project officer, Chengalpattu MGR District at Kancheepuram is requested to arrange to issue land distribution deeds by consulting the Special officer-cum-Director of Rural Development, Tamil Nadu Bhoodan Board, Madras in respect of Survey No.49/1A6B of Oragadam Village, Sriperumbudur Taluk, Chengalpattu MGR District in favour of the following 13 persons at the rate of 2.00 acres each.

1. Thiru.Manickam, S/o. Thiru.Gangan
2. Thiru.Kannaiyan, S/o. Thiru.Kuppan
3. Thiru.Kali, S/o. Thiru.Appu
4. Thiru.Masilamani, S/o. Thiru.Gangan
5. Thiru.Seeman, S/o. Thiru.Anjooran
6. Thiru.Rathinam, S/o. Thiru.Arumugam
7. Thiru.Vembuli, S/o. Thiru.Murugan
8. Thiru.Vevaraj, S/o. Thiru.Rathinam
9. Thiru.Manickam, S/o. Thiru.Vembuli
10. Thiru.Veeraraghavan, S/o. Thiru.Ekambaram
11. Thiru.Veeraraghavan, S/o. Thiru. Arumugam
12. Thiru.Narayanaswamy, S/o. Thiru.Rajagopal
13. Thiru.Govindaraj, S/o. Thiru.Vembuli.

5. In anticipating the order of the Special



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officer cum Director of Rural Development, TamilNadu Bhoodan Board, Madras the Additional Collector (Dev.) and project Officer, D.R.D.A Kancheepuram may also consider forming a society of farmer for developing the poor peasants as well as protecting the lands. The remaining land after distribution may be used for community aforestation or raising fruit crops for the Bhoodan beneficiaries."

13. From the above referred order, it is clear that the appellants were cultivating the lands by raising dry crops. The then District Collector has also inspected the lands and recommended to issue land distribution deeds for the appellants. It also reveals that even in the year 1996 the appellants were in possession and cultivating the lands and they have also applied for patta. The District Collector made a recommendation for digging of Well under the Jeevandhara scheme by forming a society for irrigating the lands with both dry crops as well as wet crops.

14. It is pertinent to refer the definition under section 2 of the Tamil Nadu Bhoodan Yagna Act, 1958, which is extracted hereunder:-

"2. Definitions :- In this Act, unless the context otherwise requires -- (a) 'Bhoodan Yagna' means the movement initiated by Shri Acharya Vinobha Bhave for the acquisition of lands through voluntary gifts for distribution to landless poor persons, co-operative societies or Sarvodaya Panchayats or for community purposes."

15. Admittedly, the subject land was originally a private land. The private land owners gifted the land to the Bhoodan Board after the Tamil Nadu Bhoodan Yagna Act, 1958 came into force. The subject land was voluntarily gifted before 1964 by the land owners and the same was published in the State Gazettee during 1965. In the District Gazettee during 1968 and till 2007 the subject land was in the name of the Bhoodan Board. The above stated proceedings of the second respondent/then District Collector dated 23.05.1996 reveals that the land was distributed to the list of persons at the rate of 2.00acres, even in the year 1959, prior to the above said Gazette publications.



16. On a perusal of the above said order passed by the second respondent/District Collector shows that the lands were distributed to the appellants at the rate of 2.00 acres each. On inspection, of the land he found that the appellants were in possession and they raised dry crops. Based on the inspection and verification of records and the adangal stands in the name of the appellants, the second respondent recommended for land distribution deed. The Bhoodan Board's file shows that the land was distributed to 12 persons by the Tamil Nadu Bhoodan Board. The Collector has seen one of the land distribution deed dated 03.06.1959. Taking advantage of the fact that the non issuance of notification and gazettee regarding distribution of land to the appellants, now the respondents are contending that the appellants are not the owners of the subject land. The second respondent is estopped from taking such a stand.

17. Even otherwise, as already stated admittedly the private land was gifted to the Bhoodan Board after the Act came into force and the same was published in the State Gazettee during 1965 and in the District Gazettee during 1968. It cannot be believed that even then the Board has not distributed the land to the landless poor persons. The then District Collector has seen the Adangals of the Oragadam village revenue records, and satisfied that the appellants have been cultivating the land by raising dry crops for more than two decades.

18. Since, the second respondent by his order dated 23.05.1996 recognised the possession of the appellants, they are entitled for the compensation.

19. The respondents are directed to pay compensation to the appellants without insisting for the distribution deed. The appellants are at liberty to file an application before the 4th respondent/SIPCOT. If any such applications are filed by the appellants, the 4th respondent/SIPCOT shall consider and dispose of the same within a period of six months from the date of receipt of such applications, taking into account our findings above.

20. With the above observation, both the writ appeals are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

tsh/tar



To

1.The Secretary to Government,
Industries Department,
State Secretariat, Fort St.George,
Chennai-9.

2.The District Collector,
Office of the District Collector at Kancheepuram,
Kancheepuram District,
Tamil Nadu.

3.The Special District Revenue Officer,
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Sriperambadur, 602105.
Kancheepuram District, Tamil Nadu.

+1cc to Mr. Advocate, S.R.No. 89312
+1cc to the Government Pleader, S.R.No. 89418

Judgment in
WA.Nos.153 and 154 of 2016

GJ(CO)
TR(27/02/2018)