

IN THE HIGH COURT OF JUDICATURE OF MADRAS
DATED: 10.02.2017
CORAM:
THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

W.A.No.1264 of 2016 &
C.M.P.Nos.16330 of 2016

The Chairman & Managing Director,
Tamil Nadu Small Scale Industries
Development Corporation,
Paul Wells Road, Kathipara Junction,
Chennai - 600 016. ... Appellant

-vs-

- 1.M/s.Exsurge Proprietorship Concern,
Formerly known as M/s.Anbu sons,
Proprietor,
A.Sujant Anbu,
S/o.P.A.D.Anbu,
Residing at
No.18, Jaganathan Nagar,
Gandhinagar, Vellore - 632 006.
- 2.Project Director,
National Highways Authority of India [NHAI],
No.8, 29th Corss Street,
Indhira Nagar, Chennai - 600 020.
- 3.The Collector,
Vellore Collectorate,
Sathuvachari,
Vellore District.
- 4.The Competent Authority-cum-
The Special District Revenue Officer,
National Highways Authority of India [NHAI],
Vellore Collectorate,
Vellore - 632 009.
- 5.Special Tahsildar [National Highways],
Ranipet - Unit 7,
Vellore District.

... Respondents

Prayer: Writ Appeal has been filed under Clause 15 of the
Letters Patent, against the order of the learned single Judge
dated 07.04.2016 made in W.P.No.36035 of 2015.

WP.No.36035 of 2015:Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct first and fourth respondents to implement the Reference Letter in Rc.G5/ 20354/2002 dated 10.3.2015 by paying compensation as per Award passed in Rc.G5/ 20354/2002 dated 23.2.2006 passed by the fourth respondent pertaining to the portion of the petitioner land and industrial unit of an extent of 0.997 Acres or 4035 sq.meters in New Survey No.13/7 at Plot No.D situated at SIDCO Industrial Estate Vannivedu Village Walaja Taluk Vellore District

For Appellant : Mr.Abdul Saleem
For Respondent No.1 : Mr.David Thyagaraj
For Respondent No.2 : Mr.Richard & Mr.Willson
for M/s.Willson Associates

J U D G M E N T

[Judgment of the Court was made by N.AUTHINATHAN, J.]

The Tamil Nadu Small Scale Industries Development Corporation (SIDCO) / the appellant developed an extent of 16.44 acres of land comprised in New Survey No.13/7 of Vannivedu Village, Vellore District into industrial plots. One of the plots bearing No.D, measuring an extent of 1.19 acres was allotted to the first respondent formally known as M/s.Anbu Sons. The tentative costs of plot was fixed at Rs.1,78,500/-. The allotment was subject to several conditions. As per the conditions, Sale Deed was to be executed after completion of construction of the building and erection of plant and machinery. The first respondent paid the entire cost of the plot. As per the revised layout it was found that the actual extent of the plot bearing of "D" allotted to the first respondent was 1.01 acres as against the extent of 1.19 acres. The excess amount collected from the first respondent was returned. The first respondent gave an undertaking letter dated 11.03.1998 that they would utilise the plot for industrial activities within the time limit stipulated in the allotment order. On 03.04.1998, the first respondent requested the appellant for approval for the blue prints for the proposed unit. By letter dated 01.08.1998, the appellant informed its Branch Manager that the first respondent has paid the full cost of the plot and handing over permission was issued.

2.The SIDCO Entrepreneurs Association informed the appellant by the letter dated 18.04.2001 that the National Highways Department inspected the land and laid stones to form a bye-pass road on 16.04.2001. The Central Government by way of

Notification dated 27.02.2003 for acquiring the lands including the land measuring 15,000sq.mtr of SIDCO for construction of bye-pass connecting to the National Highway No.4 and National Highway No.46. However, the industrial plots in question were shown as Government lands. The first respondent by their letter dated 05.07.2005 brought it notice of the SIDCO that the plot allotted to him was acquired by the National Highways Authority and requested the SIDCO for arranging to get compensation from the National Highways Authority. The SIDCO replied to the first respondent by its letter dated 28.03.2008 that after receipt of compensation, the same would be released to him (first respondent). The District Revenue Officer accepted the claim of the SIDCO and he fixed the compensation as detailed below:

a)	Land value for 15000 sq. Mtr (at Rs.11.07 per sq.mtr)	Rs.1,66,050.00
b)	Structure Value	Rs.2,03,476.00
c)	Total	Rs.3,69,526.00
d)	10% appreciation	Rs. 36,952.60
e)	Total	Rs.4,06,478.60 (or) 4,06,479.00

3.The District Revenue Officer by his letter dated 10.03.2015 requested the Highways Authority to deposit the compensation amount of Rs.4,06,479/- immediately. The Highways Authority has also paid the compensation amount of Rs.4,06,479/- by way of cheque dated 31.08.2015 in favour of SIDCO.

4.The first respondent approached this Court by way of W.P.No.36035 of 2015 for the following relief:

"to direct the first and fourth respondents to implement the reference letter in Rc.G5/20354/2002 dated 10.03.2015 by paying compensation as per award passed in Rc.G5/20352/2002, dated 23.02.2006 passed by the fourth respondent pertaining to the portion of the land and industrial unit of an extent of 0.997 acres or 4035 sq.meters in New Survey No.13/7, at Plot No.D, situated at SIDCO Industrial Estate, Vannivedu Village, Walaja Taluk, Vellore District."

5.The Writ Court has held that the first respondent is an allottee and he is entitled to the compensation payable towards acquisition of Plot No.D. The Writ Court has also granted liberty to the first respondent to approach the third respondent under Section 3G(5) of the National Highways Act,1956 for claiming compensation at the market rate.

6.Challenging the said order dated 07.04.2016 passed by the learned Single Judge in W.P.No.36035 of 2015, the present Writ Appeal has been filed.

7.The learned Advocate General appearing for the appellant submitted that the first respondent allottee cannot be termed to be the owner of the plot as no sale deed has been executed in his favour since he has violated the condition under Clause 16 of the allotment order dated 07.07.1997. It is also submitted that on receipt of total compensation amount of Rs.4,06,479/- a sum of Rs.1,49,550/- was paid to the writ petitioner by means of Demand Draft dated 18.09.2015.

8.The learned counsel for the first respondent would submit that the first respondent is entitled to claim the compensation for the land measuring 0.997 acres as he has already paid the entire sale consideration for the Plot and he developed the property by sinking a borewell and levelling the land. According to him, the first respondent is a person interested in respect of the land in question.

9.Admittedly, the allotment was subject to conditions. Clause 16 of the conditions reads as follows:

"The construction of building should commence within six months from the date of taking possession of the plot(s) and production should commence within 24 months from the date of taking possession of the plot (s)."

10.In INDU KAKKAR vs. HARYANA STATE INDUSTRIAL DEVELOPMENT CORPORATION LTD. [(1999) 2 SCC 37], the Hon'ble Supreme Court has held that "the allotment of industrial site on condition that the allottee shall establish industry thereon within a specified period failing which the plot shall be resumed." In the case at hand, as per the allotment order dated 07.07.1997, the allottee shall fulfill the terms and conditions, failing which, the allotment shall be liable to be cancelled. However, it is noteworthy that the order of allotment has not been cancelled and remains intact.

11.The learned Advocate General for the appellant placing reliance on the decision of the Hon'ble Supreme Court in STATE OF U.P. vs. DISTRICT JUDGE [(1997) 1 SCC 496], would contend that the first respondent cannot be treated as the owner of the plot in question as there is no sale deed in his favour. The Hon'ble Supreme Court has held that "a person in possession pursuant to a contract for sale does not get title to the land unless there is a valid document of title in his favour."

12.As per Section 3-G(3 and 4) of the National Highways Act, 1956, the competent authority should invite claims from all persons interested in the land to be acquired and require them to appear before him to state the nature of their interest in the acquired land. It is true that no sale deed has been executed in favour of the first respondent. But the first respondent has paid the entire sale consideration and possession was also handed over to him. He started enjoying the property by sinking a borewell in the land. In HIMALAYAN TILES AND MARBLE (P) LTD. vs. FRANCIS VICTOR COUTINHO [(1980) 3 SCC 223], the Hon'ble Supreme Court has held that "the definition of 'person interested' must be liberally construed".

13.In M.KUPPUSWAMI vs. THE SPECIAL TAHSILDAR [1967 [I] MLJ 329] a single Judge of this Court has held that "The expression "person interested" as defined in Section 3(b) of the Land Acquisition Act is a very comprehensive one and is held to include all persons claiming an interest in the compensation to be made on account by the acquisition of land under the Act. It should be liberally interpreted and will include even a person interested in the compensation money without having an interest in the land in a strictly legal sense of the term. The definition does not purport to be exhaustive either. It is immaterial whether there was any substance in the claim made by the person and the Collector is bound to treat every person who claims the compensation as a person interested, irrespective of whether the claim is valid or not. The Collector has no power to finally adjudicate upon the rights of conflicting claimants. Hence even a person claiming a right under an agreement to sell has a right to seek a reference under sections 18 and 30 of the Act to the civil Court and the Land Acquisition Officer cannot refuse to make the reference on the ground that such a person is not one interested in the acquisition." We are in agreement of the said view. The first respondent would certainly come within the ambit of "person interested". Therefore, we are of the considered view that the first respondent is entitled to claim the compensation for the acquisition of the land comprised in Plot No.D".

14.For the reasons stated above, the conclusion reached by the learned single Judge deserves to be upheld and is accordingly upheld.

15.It was pointed out that the learned single Judge directed payment of the entire amount of Rs.4,06,479/- to the first respondent. Admittedly, the said amount was paid for acquisition of 15,000sq.mtr. As a matter of fact in the writ petition, the first respondent prayed for compensation for an extent of 0.997 acres. Therefore, the first respondent would be entitled to compensation for an extent of 0.997 acres only.

16.With the said modification, the Writ Appeal is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

sri

To

1 The Chairman & Managing Director,
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... Respondents

+1 cc to M/s.Abdul Salem Advocate sr 9130
+2 ccs to Mr.David Tyagaraj Advocate sr 8698

W.A.No.1264 of 2016

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