

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.01.2018

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A No.1434 of 2017 and
C.M.P.No.19291 of 2017

Singapore Realty Private Limited
Plot K1, SIPCOT I.T.Park
Siruseri, Pudupakkam PO
PIN - 603 103

Rep. by its Director

...Appellant/3rd Party

Vs

1.G.Anand

...1st Respondent/Petitioner

2.State of Tamil Nadu,
Rep. by its Secretary to Government,
Industries Department
Fort St.George, Chennai - 600 009.

3.The District Collector,
Kancheepuram District,
Kancheepuram 631 501.

4.The Special Tahsildar (Land Acquisition),
SIPCOT, Siruseri Scheme,
Irungattukottai,
Sriperumbudur Circle,
Kancheepuram District. ...Respondents 2 to 4/Respondents 1 to 3

Prayer:- Writ Appeal filed under clause 15 of the Letter Patent to set aside the order dated 05.03.2013 made in W.P.No.6147 of 2008.

W.P.No.6147 of 2008:

Petition filed under Article 226 of the constitution of India praying for the issuance of a Writ in the nature of Certiorari, to call for the records bearing Ref NO Na.Ka. NO 440/2002 dated 5/10/2007 filed and marked as Ex A and Ref RC 440/2002 dated 26/10/2007 filed and marked as Ex A and Ref RC 440/2002 dated 26.10.2007 filed and marked as Ex B issued by the 3rd respondent and quash the same as illegal arbitrary and unconstitutional and consequently direct the respondent 1 to 3 not to take any further steps in respect of the petitioner land situate in S.NO 230/14.

For Appellant : Mr.Sriram Panchu
Senior Counsel for
Mr.Srinath Sridevan

For Respondents: Mr.B.Ramamoorthy for R1
Mrs.A.Srijayanthi,
Spl.Govt.Pleader for R2 and R3
R4 - No appearance

J U D G M E N T
(made by P.VELMURUGAN, J.)

The writ petition filed by the first respondent challenging the land acquisition was allowed by the writ court. Aggrieved against the order passed by the learned single Judge, the appellant, who is a third party, has filed the present appeal.

2. The land adjacent to the land owned by the first respondent, which belongs to his sister was acquired for industrial purpose by issuing a notification under Sections 7(5) and 10(2) of the Tami Nadu Acquisition of Land for Industrial Purposes Act, 1997 (hereinafter referred to as "the Act"). Being dissatisfied with the compensation, the sister of the first respondent sought reference for enhancement of compensation. While so, the first respondent received a letter dated 26.10.2007 from the fourth respondent to collect the compensation for the land acquired from him and situated in Survey No.230/14 in Siruseri, Sriperumbudur, Kanchipuram District. Prior to the communication received by the first respondent, no notice for acquisition was issued to him. Therefore, the first respondent filed a writ petition in W.P.No.6147 of 2008 to quash the letter dated 26.10.2007. The writ petition was allowed by the learned single Judge by order dated 05.03.2013 on the ground that statutory provisions contemplated under the Act were not complied with. Feeling aggrieved, the appellant is before this Court.

3. The learned Senior Counsel for the appellant would submit that the lands comprised in Survey Nos.230 to 253 at Siruseri Village were notified for construction of a knowledge based integrated township at IT Park, Siruseri Village consisting of housing units, schools, play ground, shops etc. The 4th respondent after following due procedure acquired the lands and handed over possession to the appellant. While so, without impleading the appellant, who is the beneficiary, the first respondent filed the writ petition and obtained an order behind its back. Though the first respondent challenged only the letter dated 26.10.2007, the learned single Judge quashed the entire

land acquisition proceedings. Hence, the order passed by the learned single Judge is liable to be set aside.

4. The learned counsel for the first respondent would submit that the first respondent is the owner of the land in S.No.230/14. The learned counsel would further submit that no notice was served on the first respondent in respect of the acquisition proceedings. The land was acquired without following the procedure prescribed under the Act. It was only when the first respondent received the letter dated 26.10.2007 from the fourth respondent, he was aware of the fact that his land was also acquired. Therefore, the first respondent filed the writ petition challenging the letter dated 26.10.2007 on the ground that no notice was served on him with regard to acquisition. The learned single Judge having found that no notice was issued to the first respondent rightly quashed the acquisition proceedings. Therefore, no interference is warranted and the appeal is liable to be dismissed.

5. The learned Special Government Pleader appearing for respondents 2 and 3 would submit that the possession of the land was taken from the land owners and it was handed over to the beneficiaries. The learned single Judge without discussing the background facts including the factum of taking possession allowed the writ petition.

6. We have considered the submissions made on either side and perused the records.

7. It is the case of the appellant that the Land Acquisition Officer, after the culmination of the land acquisition proceedings took possession of the land from the first respondent and handed over to the appellant, after following the procedure contemplated under the Act. Whereas, it is the case of the first respondent that no notice was issued to him prior to the acquisition. It was only when the 4th respondent sent a letter dated 26.10.2007 to the first respondent to collect the compensation amount, he was made aware of the acquisition proceedings. Even at that point of time, according to the first respondent, he was in possession of the property. Therefore, the first respondent filed the writ petition in W.P.No.6147 of 2009 challenging the letter dated 26.10.2007. Since no notice was issued to the first respondent before acquiring the land, the learned single Judge allowed the writ petition.

8. According to the appellant, possession of the land was handed over to them after the acquisition, whereas, it is the contention of the first respondent that he is still in possession of the land. It is pertinent to note that the appellant filed a suit in O.S.No.93 of 2016 for declaration and recovery of possession, which indicates that the appellant is

not in possession of the property. It is also seen from the records that the appellant has filed a suit in O.S.No.129 of 2016 before the District Court, Chengalpet for a permanent injunction restraining the first respondent from interfering with its peaceful possession and enjoyment of the subject property. The said suits are stated to be pending.

9. It is the grievance of the appellant that the first respondent without impleading the appellant, who is the beneficiary of the acquisition proceedings filed the writ petition. The learned single Judge, without considering the background facts allowed the writ petition and quashed the acquisition proceedings. It is an admitted fact that in the writ petition, the appellant is not a party. Even assuming that possession is not taken by the appellant, still the appellant is the beneficiary of the acquisition proceedings. Therefore, the appellant is a necessary party to the writ proceedings and the company should have been impleaded as a party to the writ petition. Therefore, on the sole ground of non-joinder, the order passed by the learned single Judge is liable to be set aside.

10. Accordingly, the order dated 05.03.2013 is set aside. The matter is remitted to the writ court for fresh consideration. The appellant is given liberty to implead as a party to the writ petition. It is needless to state that the parties are at liberty to file counter affidavit and rejoinder if any. Thereafter, the matter would be decided on merits and in accordance with law, without being influenced by any of the observations made in this judgment.

11. The writ appeal is disposed of as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

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To

1. The Secretary to Government,
State of Tamil Nadu,
Industries Department
Fort St. George, Chennai - 600 009.

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'2.The District Collector,
Kancheepuram District, Kancheepuram 631 501.

3.The Special Tahsildar (Land Acquisition),
SIPCOT, Siruseri Scheme,Irungattukottai,
Sriperumbudur Circle, Kancheepuram District.

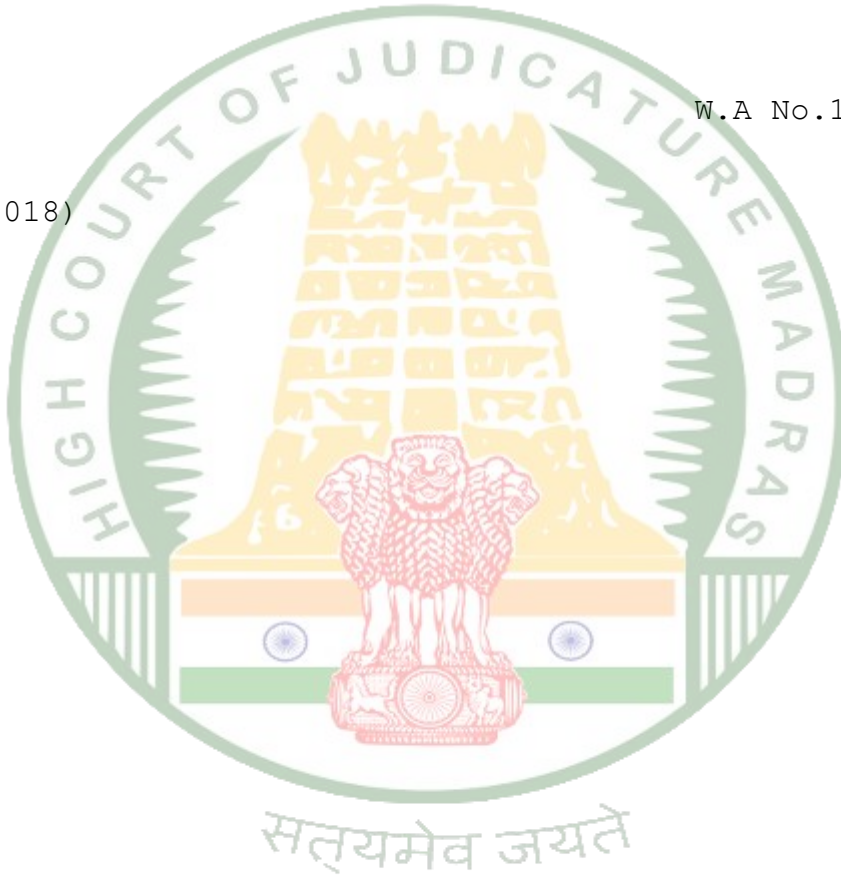
+1 CC to Mr.Srinath Sridevan, Advocate sr 45

+1 CC to The Govt. Pleader sr 164.

+1 CC to Mr.B. Ramamoorthy, Advocate sr 193.

W.A No.1434 of 2017

GP(CO)
SP(13/02/2018)



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