

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2018

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.2421 of 2018

Oriental Hotels Limited
Rep by its Managing Director
Having its Corporate Office at
No.47, Paramount Plaza
Mahatma Gandhi Road
Chennai - 600 034.

... Petitioner

-Vs-

- 1.The Government of Tamil Nadu
Rep by its Secretary
Highways and Minor Ports Department
Secretariat
Chennai - 600 009.
- 2.The District Collector
Kancheepuram District
Kancheepuram.
- 3.The District Revenue Officer
Kancheepuram.
- 4.The Special Tahsildar
Land Acquisition
Oragadam Industrial Infrastructure Scheme
Sriperumbudur Taluk
Kancheepuram District.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to fix and disburse compensation in respect of lands in S.No.305/1 and S.No.308B at Pondhur Village, Sriperumbudur Taluk, Kancheepuram District under the Central Act No.30 of 2013 pursuant to the proceedings of the third respondent in Na.Ka.No.F2/25015/2009 dated 23.06.2017.

For Petitioner	: Mr.R.Subramanian
For Respondents	: Mr.M.Karthikeyan
	Additional Government Pleader

ORDER

1.1 The petitioner, a Private Limited Company, has come forward with a case that it owns a property ad-measuring 4.54 acres spread over several survey numbers in Pondhur Village, Sriperumbudur Taluk, Kancheepuram District, that a portion of the property measuring 1.08 acres comprised in Survey Nos. 308/B, 309/1, 309/2, 305/1 and 305/4 was sought to be acquired under the provisions of the National Highways Act, 2001, along with other properties, that a notification under Section 15(2) of the National Highways Act, 2001 was published in Dinathanthi on 26.08.2009, and that no personal notice however, was served on the petitioner and the authorities also have not notified the property in Survey No.308/B.

1.2 The petitioner submitted its objection to the fourth respondent, but nothing was heard. Thereafter, the petitioner moved this Court in W.P.No.2661 of 2015, for directing the respondents to consider the petitioner's representation dated 25.11.2014 and to determine the compensation payable in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013) (hereinafter referred as "Right to Fair Compensation Act, 2013" in brevity). On 04.2.2015, this Court allowed the said writ petition and directed the authorities to consider the aforesaid representation within eight weeks.

2. Mr.R.Subramanian, learned counsel appearing for the petitioner submitted that till date, no award has been passed to the knowledge of the petitioner and contended that in view of the coming into force of the Central Act 30/2013, the petitioner is entitled to the compensation in terms of the provisions thereof.

3. Mr.M.Karthikeyan, learned Additional Government Pleader, on instructions, submitted that awards would be passed only in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30/2013) (hereinafter would be referred to as Right to Fair Compensation Act, for brevity).

4. Section 105-A(2), introduced by a State amendment to the Right to Fair Compensation Act, provides for exempting the State laws enumerated in Schedule-V of the Right to Fair Compensation Act from the application of the said Act. Irrespective of the constitutionality or otherwise of the same, Section 105-A(2) provides that even where any modification etc., are brought within the meaning of Section 105-A(2) of the Right to Fair Compensation Act, 2013, by the Government, yet they shall not

reduce the compensation or dilute the provisions of the Central Act relating to compensation or rehabilitation and resettlement etc. Since the statement has also been made by the respondents now that the compensation would be determined in terms of the principles embodied in the Central Act 30/2013, and the same has to be necessarily worked in terms of the same.

5. The learned Government Advocate also brought to the notice of the Court that interim compensation of Rs.1,19,80,592/- has been disbursed on 30.06.2016 and the learned counsel for the petitioner acknowledges this receipt.

6. In the result, the petition is allowed with a direction to the respondents to issue notices to the petitioner in the above address, to hold enquiry and to pass final award based on the method/ principles under the Right to Fair Compensation Act. It is made clear that whatever that has already been paid by the respondents and received by petitioner is liable to be deducted from the amount as may be determined in the final award. The respondents are directed to complete the proceedings as expeditiously as possible, but not later than six months from the date of receipt of a copy of this order. No costs.

Sd/-

Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

To:

1.The Secretary
Government of Tamil Nadu
Highways and Minor Ports Department
Secretariat
Chennai - 600 009.

2.The District Collector
Kancheepuram District
Kancheepuram.

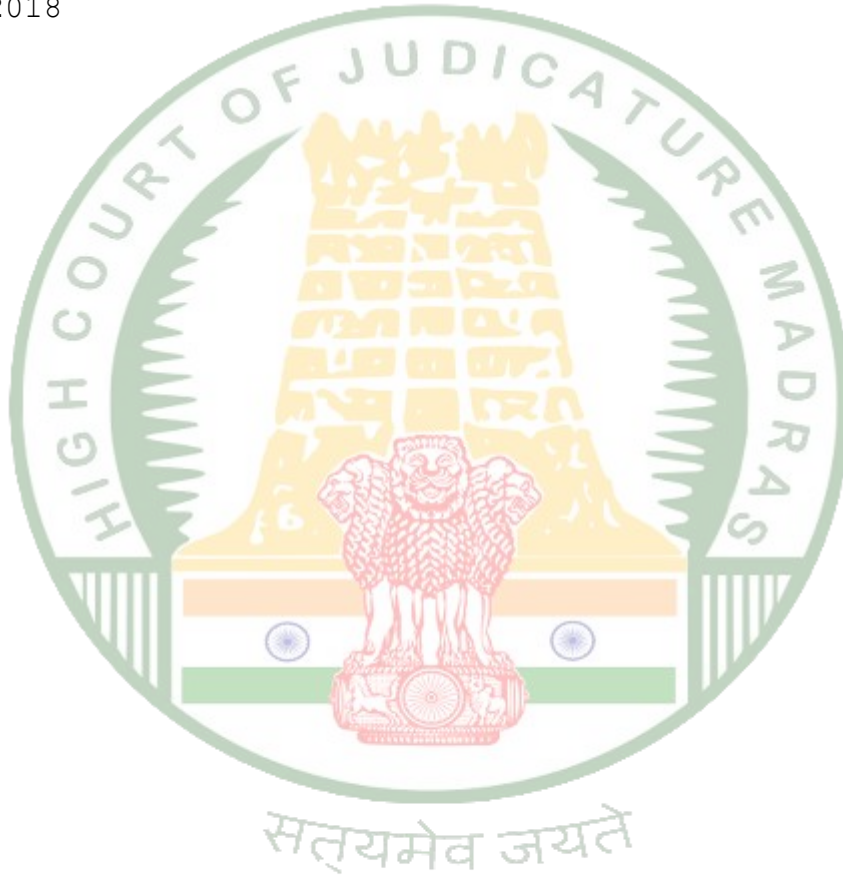
3.The District Revenue Officer
Kancheepuram.

4.The Special Tahsildar
Land Acquisition
Oragadam Industrial Infrastructure Scheme
Sriperumbudur Taluk
Kancheepuram District.

+lccc to Mr.R.Subramanian, Advocate sr.no.11481

W.P.No.2421 of 2018

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