

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.11.2017

PRONOUNCED ON : 23.01.2018

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A. Nos.821 and 822 of 2010
and
C.M.P. No.3444 of 2016

Rama Rao Ayyagari ..Appellant in W.A.No.821 of 2010

1. Rajesh Rajamani
2. Suvarna Ayyagiri
Rep. by their power agent
Mr.Rama Rao Ayyagari ..Appellants in W.A.No.822 of 2010

Versus

1. Government of Tamil Nadu,
Represented by Secretary,
Industries Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The District Collector,
Kancheepuram District,
Kancheepuram.
3. The Special Tahsildar (Land Acquisition),
SIPCOT Irungattukottai Expansion Scheme,
Unit IV,
Sriperumbudur - 602 105. ..Respondents in both W.As.

Appeals are filed under Clause 15 of Letters Patent against the order dated 28.01.2010 passed in W.P. Nos.12611 and 13043 of 2008 respectively. To issue a writ of certiorarified Mandamus calling for the records comprised in Form-A notice issued by the third respondent dated 07.09.2007 and declaration made under section 3(1) in G.O.Ms.No. 48 Industries Department (SIPCOT LA) dated 10.3.2008 as published in the Tamil Nadu Government Gazette Extraordinary No. 73 dated 10.03.2008 and the consequential Form-E Notice dated 20.03.2008 in respect of the lands of the petitioner in Plot No.3 measuring an extent of 10962 sq.ft. comprised in S.No. 253/1 C 253/1D 253/4 253/9A 253/1B 253/1C 253/8C of vengadu Village Sriperumbudur Tk. Kancheepuram Dt., and quash the same and consequently forbear the respondents from acquiring the said lands of the petitioner.

Prayer in WP.13043 of 2008: To issue a writ of certiorarified Mandamus calling for the records and declaration made under Section 3(1) in G.O.Ms.48 Industries Dept (SIPCOT LA) dated 10.03.2008 as published in the Tamil nadu Government Gazette Extraordinary No. 73 dated 10.03.2008 and the consequential Form-E Notice dated 20.03.2008 in respect of the lands of the petitioner measuring an extent of 10792 sq.ft respectively comprised in S.No. 253/1 C 253/3, 253/4 253/8c 253/9 A (As per putta 253/1 BK) of Vengadu Village, Sriperumbudur Taluk, Kanceepuram District and quash the same and consequently forbear the respondents from acquiring the said lands of the petitioner;

For Appellants : Mr.Om Prakash,
Senior Counsel for
M/s.Ramalingam Associates

For Respondents : Mr.V.Anandamoorthy
Additional Government Pleader

COMMON JUDGMENT

P.VELMURUGAN, J

The appellants have filed the writ petitions challenging the Notice issued by the third respondent, dated 07.09.2007, the declaration made under Section 3(1) in G.O. Ms. No.48, Industries Department, (SIPCOT LA), dated 10.03.2008 and the consequential Form-E Notice dated 20.03.2008 in respect of their lands in Plot No.3, measuring an extent of 10962 sq.ft. comprised in S.No.253/1 C, 253/1D, 253/4, 253/5, 253/9A, 253/1B, 253/1C, 253/3, 253/4 and 253/8C of Vengadu Village, Sriperumbudur Tk., Kancheepuram District, and after quashing the same, to pass an order to restrain the respondents from acquiring the said lands.

2. The learned single Judge, after hearing the rival submissions made by both the learned counsel and after perusing the material records placed before him, dealt with the writ petitions along with a batch of similar writ petitions and by a common order dated 28.01.2010, dismissed the batch of writ petitions.

3. Aggrieved by the order dated 28.01.2010 passed by the learned Single Judge in WP Nos.12611 and 13043 of 2008, the appellants have filed the present writ appeal.

4. The learned counsel for the appellants would contend that the purpose of acquisition was to expand the existing industrial complex of SIPCOT at Irungattukottai with an intention to develop speedy industrial growth and the same can be done by the Government as well as by the private entrepreneurs. According to the learned counsel, the appellants were not served with the report of the enquiry conducted by the District Collector. Further, the learned counsel would submit that there were grown mango trees in the mango grove in the vast area of 27 acres. Though the Government has delegated the

powers to the District Collector for acquiring the land by initiating appropriate proceedings, the District Collector has not given any opportunity to the individual owners to submit their objections and failed to consider the objections. Therefore, the order passed by the District Collector, is non est and consequently the acquisition proceedings are vitiated.

5. The learned counsel for the respondents would submit that the Government, at the instance of SIPCOT, in order to capitalise on the booming economy and the interest shown by the industrialists and finding that there is no bulk space available in the existing industrial complex of SIPCOT accorded administrative sanction in G.O.Ms.No.138, Industries Department, dated 3.11.2006 to acquire private lands under the Act 10 of 1999. The government acquired the lands in the villages of Pillaipakkam, Vengadu, Navalur and Irumbedu to a total extent of 349.51 acres. The appellants have got lands of 27 acres, out of which 21.5cents, were acquired measuring about 10,962/- sq. ft., which is only for industrial purpose to uplift the economy of the general public. Further, he would submit that notices were served on all the land owners and objections were also received from the land owners including the present appellants. The representations were duly considered and since the acquisition proceedings were initiated in public interest and having regard to the fact that the objections were generic in nature, the respondents have considered the claims of the land owners and rejected it. Before rejecting the same, all the legal provisions have been duly complied with and the District Collector submitted the report before the Government. The Government has also accepted the recommendations of the Collector and notification was published in the District Gazettee. The learned single Judge has considered all the above facts and rightly dismissed the writ petitions filed by the appellants along with a batch of other connected writ petitions. Therefore, the learned counsel for the respondents prayed for dismissal of the writ appeals.

6. It was noted by the learned single Judge that administrative sanction was accorded by the Government for acquisition of the lands in the said village for allotment by the SIPCOT for private industries. According to the learned counsel for the appellants, for the purpose of SIPCOT Irrunkattukottai Expansion Scheme the appellants' land together with the grown mango groves have been sought to be acquired without considering the objection of the appellants for exempting their lands taking note of the huge growth of the trees exist in their lands.

7. A perusal of the records would go to show that the respondents have acquired the land to the total extent of 349.51.0 hectares, out of which the appellants land is only an extent of 10,962/- sq. ft. In this regard, the Government delegated the powers to the District Collector. The District Collector, identified and selected the lands fit for the purpose for which they are likely to be used and issued notices to the land owners and persons interested. The Land owners have

also appeared pursuant to the notice. Some of the land owners have submitted their objections in writing and some of them raised oral objections, but invariably most of the land owners have raised objections, including the present appellants. According to the respondents, the objections raised by most of the land owners were generic in nature and some other objections were made for disbursing higher compensation by citing the developments taking place in the locality where the lands are situate. According to the respondents, there are not so much trees in the lands in question, as stated by the appellants. So far as the appellants land is concerned there are Teak woods Trees - 4 Nos.; Coconut trees - 4 Nos.; Guava Trees - 4 Nos. and Mango Trees - 3 Nos. It is further stated that the appellants are having 27 acres of lands and out of it, the respondents have acquired the land measuring 10,962/-sq. ft. i.e. roughly about 21.5 cents only. Further, the appellants have filed a representation before the 3rd respondent on 04.10.2007 in which it was stated that there are more than 2000 fruit yielding trees of various varieties of more than 15 years old in the said layout and individually the appellants land bears few trees. Further it was stated that if the authority overrules the request made by the appellants and insist upon acquiring the land by destroying the beauty of the nature and cause damage to the environment, then their claim for payment of the then prevailing market value of the land at Rs.1,00,000/- per cent for agricultural land or Rs.800/- per sq. ft. for a residential land shall be considered. It was also stated that as per the guideline value in the nearby layout of C.V.Raman Nagar per square feet of land is valued at Rs.350/-. Such objections of the appellants were rejected on the ground that there are no such fruit yielding trees as claimed and in the rest of the lands, there were no trees and they are only plots. Some newly constructed buildings were there and those buildings are required to be retained as the lands are acquired only for industrial purpose. Therefore, it is seen that there is no other vital objections raised by the land owners including the present appellants. Further, in the last paragraph of the representation it was represented by the appellants that in the event of a decision taken to acquire their land, the authorities shall consider fixing the present market value of the land or to fix the market value at Rs.1,00,000/- per cent for agricultural land or Rs.800/- per sq. ft. for a residential land. Even according to the appellants, the guideline value in the nearby layout of C.V.Raman Nagar is Rs.350/- per square feet, which has been inferred from the newspapers.

8. A perusal of the entire record shows that the Collector has given adequate opportunity to the land owners to submit their objections. It is also not in dispute that notice was served to the appellants and they also made representations by way of objection to the proposed acquisition proceedings. The appellants clearly admitted that after the receipt of the notice, they made objections by way of representation which was also duly considered. According to the appellants, the

Collector has not given opportunity for them individually for hearing before rejecting their claim.

9. A perusal of the records further show that Collector has issued show cause notice and the appellants representations were also carefully considered by the Collector before rejecting the same. The objections of the appellants was ultimately overruled by the respondents as not acceptable. It is not the case of the appellants that the statutory provisions have been violated in the process of acquiring their lands. The learned single judge has considered all these aspects extensively and also gone through the original file, as could be seen from the order dated 28.01.2010. We see no reason to interfere with the well considered order passed by the learned single Judge.

10. In the result, the writ appeals are dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

vsi2

To

1. The Secretary,
Industries Department,
Secretariat, Fort St. George, Chennai - 600 009.

2. The District Collector,
Kancheepuram District,
Kancheepuram.

3. The Special Tahsildar (Land Acquisition),
SIPCOT Irungattukottai Expansion Scheme,
Unit IV,
Sriperumbudur - 602 105.

+ 4 ccs to M/s. Ramalingam Associates, Advocate 4981, 4980

W.A.Nos.821 & 822/2010