

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2018

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.30193 of 2016
and WMP.No.26172 of 2016

Indian Maritime University
Represented herein by its Registrar
E.C.R. Uthandi
Chennai - 600 119.

... Petitioner

-Vs-

1.The State of Tamil Nadu
Represented by its Secretary
Public Works Department (Highways)
Chennai - 600 119.

2.The Collector
Kancheepuram District
Kancheepuram.

3.The Revenue Divisional Officer
Tambaram Division
Kancheepuram District.

4.The Sub-Collector
Saidapet, Kancheepuram District. ... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Declaration, thereby declaring that the land acquisition of 0.15.0 hec. of land comprised in S.No.3/494B of Uthandi Village, Sholinganallur Taluk, Kancheepuram District by Award No.1/95 of the fourth respondent herein dated 14.08.1995 had lapsed.

For Petitioner : Mr.K.R.Tamizh Mani
For Respondents : Mr.A Zakir Hussain
Government Advocate

ORDER

1. This petition is filed by the Indian Maritime University through its Registrar. The petitioner seeks a declaration that an acquisition of 0.15.0 hectares of land comprised in S.No.3/494B of Uthandi Village, Sholinganallur Taluk, Kancheepuram District, covered by Award No.1/95 dated 14.08.1995 had lapsed.

2.It is averred in the affidavit filed in support of the petition that the National Institute of Port Management

(NIPM), a Society, which required extensive of lands for its activities had purchased about 20 acres of lands comprised in Survey No.3/2B2 correlated to New Survey No.3/494-B of Uthandi village from a certain Ranganthan on 21.07.1986,. Necessary mutation was carried out in the revenue records on 27.07.1988, and patta too was issued. The Society began its operation from the said campus and in the year 2006. It was re-christianed as National Maritime Academy and it was later converted into Indian Maritime University Vide an Act of the Parliament, that came into effect on 14.11.2008.

3. Be that as it may, sometime in the year 2015, the petitioner came to know that part of the property in Survey No.3/494-B was acquired under the Land Acquisition Act, 1894 sometime in the year 1993 and an award was passed in August 1995, but without notice of acquisition at any stage prior to the same. In the meantime, a certain representative of Tamil Nadu Road Development Corporation visited the University to inform the authorities that the road would be widened and the University might have to pull down its compound wall in Survey No.3/494-B. With much difficulty, the petitioner could obtain a copy of the award passed in the case from where it gathered information that the owner of the property in Survey No.3/494-B was indicated as petitioner's vendor Ranganathan,

4. It is apparent that the petitioner had obtained a sale of his property in the year 1986 and also effected mutation in the revenue records in the year 1988, and the land acquisition authority did not even care to verify either the revenue record or the encumbrance over the property. The petitioner challenges the entire acquisition proceedings on two grounds :

(a) that the acquisition had taken place behind the back of the petitioner without any notice to it;

(b) right through, the petitioner is in possession of the property and as a result, the consequences that emanate from Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 will befall to render the acquisition proceedings as lapsed.

5. In the counter, the material particulars pertaining to acquisition are given and they are tabulated as below :

Stages of Acquisition particulars	Date of Issuance
Notification under Section 4(1) of the Act	04.03.1992
Declaration under Section 6 of the Act	17.08.1993

Stages of Acquisition particulars	Date of Issuance
Award passed under Section 11 of the Act	16.08.1995

6.1 So far as the property in Survey No.3/494-B and 3/494-C are concerned, the registered land owners as per the revenue record was one V.S.Ranganathan and 9 others, who held the lands under patta No.757 of Uthandi Village and that a sum of Rs.85,573/- was awarded as compensation. Besides, the petitioner's vendor V.S.Ranganathan, one of the owners of the land had filed W.P.No.27502 of 2006 and this Court Vide its order dated 29.11.2013 has directed the Revenue Divisional Officer, Tambaram to deposit the compensation under Sections 30 and 31(2) of the Land Acquisition Act, 1894, within two weeks and accordingly the amount was also deposited on 10.01.2014.

6.2 So far as taking possession goes, it is averred in the counter affidavit that the petitioner has not yet surrendered the possession of the property.

7. Today, Mrs.S.Rani, Personal Assistant to Revenue Divisional Officer, Revenue Department, Tambaram is present to assist the Court. Heard Mr.K.R.Tamil Mani, learned counsel appearing for the petitioner and Mr.A.Zakir Hussain, learned Government Advocate appearing for the respondents.

8. The two facts that can be instantly appreciated on a bare reading of the counter affidavit are :

- a) that no notice was issued at any time on the petitioner, as concerning the property in Survey No.3/494B of Uthandi Village
- b) that possession of the property has not been taken.

9.1 It now emerges from rival pleadings that the land acquisition authority has not issued any notice of acquisition at any stage during the acquisition proceeding. He has proceeded on the footing that the registered owner of the property was certain Ranganathan, the vendor of the petitioner and few others. However, it has not made available the copy of the said patta in this proceedings. On the other hand, the petitioner has provided a copy of its patta issued on 27.07.1988, available at Page No.17 of its typed set of papers. There is little to suspect the genuineness of this patta, since no where in the counter, the sale to the petitioner was questioned or suspected. Even by the stand that the respondent has taken in the counter affidavit, notification under Section 4(1) of the Land Acquisition Act, 1894 was issued only in 1992, some six years after the date of sale deed in favour of the petitioner and some four years after the issuance of patta. The carelessness on the part of the Land Acquisition Authority in ascertaining the registered owner of the land at any stage during the acquisition proceedings is appalling and it hardly befits the office he

holds. Necessarily, the land acquisition proceedings and the award passed thereunder fail for sheer want of notice of the acquisition proceedings to the petitioner.

9.2 Having conceded that possession of the property has not been taken, the respondents seek shelter under the order of this Court in W.P.No.27502 of 2006. The respondents themselves have made available a copy of the order in W.P.No.27502 of 2006 and a plain reading of the order indicates that it pertains to the property in Survey No.3/486B and not in Survey No.3/494B.

10. The learned counsel for the petitioner submitted that this property is also a part of the same notification, but what was challenged by the petitioner's vendor V.S.Ranganathan pertains to some other property, which he held in his name and the property that he had sold to the petitioner in 1996 was not a subject matter of W.P.No.27502 of 2006.

11. In the result, this writ petition is allowed with a modification as the entire acquisition proceedings fails, and accordingly the Award No.1/95 dated is quashed as pertaining to the property in Survey No.3/494B of Uthandi Village, Sholinganallur Taluk, Kancheepuram District. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To:

- 1.The Secretary State of Tamil Nadu
Public Works Department (Highways)
Chennai - 600 119.
- 2.The Collector
Kancheepuram District
Kancheepuram.
- 3.The Revenue Divisional Officer
Tambaram Division
Kancheepuram District.
- 4.The Sub-Collector
Saidapet, Kancheepuram District.

+ 1 cc to MR. K.R. Tamizh Mani, Advocate Sr.

W.P.No.30193 of 2016

KJ(CO)

FILED 16/03/2018

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