

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2018

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.36381 of 2016

1.S.Indira

2.V.Parimala

3.R.Balaji

4.R.Bhavani

5.R.Durga

6.V.Chandramouli

7.V.Ramachandran

8.V.Ravichandran

... Petitioners

-Vs-

1.The Special Tahsildar (Land Acquisition)
Sipcot, Unit-4
Irungattukottai Expansion (Pillaipakkam) Scheme
42, Thirumangai Alwar Street
Sriperumbudur - 602 105
Kancheepuram District.

2.The Chairman and Managing Director
Sipcot, Chennai.

... Respondents

[R2 suo motu impleaded as per
order dated 22.01.2018]

Prayer :- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the issuance of the impugned order in Na.Ka.No.91/2015 dated 14.09.2015 passed by the respondent and quash the same and further to direct the respondent to settle the accrued interest amount from the year 2008 to January 2013 to the petitioners within a time frame as may be fixed by this Court.

For Petitioners : Mr.A.Suresh
For Respondents : Mr.A Zakir Hussain
Government Advocate [R1]

ORDER

1. The case of the petitioners is that they were joint owners of a block of property in Suvey Nos.236/1, 237/6A, 237/6C, 237/6D and 245/1, totalling 2.66 acres at Vengadu Village, Sriperumbudur, Kancheepuram District and the same was acquired under the provisions of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997. Possession of the property was taken even in the year 2008 and thereafter an award was passed on 30.10.2012. However, the Land Acquisition Authority has omitted to grant interest from the date of taking possession till the passing of the award. The petitioners have been approaching the Land Acquisition Authority with regard to payment of interest from the date of taking possession and preferred a representation dated 16.03.2015, and this was rejected by the authority on 14.09.2015 under the impugned order.

2. It is stated in the impugned order, that of the few survey numbers referred to above, only the property in Survey No.236/1 was taken possession of on 23.06.2008, and as regards the properties comprised in Survey No.237/6A, 237/6C, 237/6D and 245/1, the possession was taken only on 07.12.2012 and therefore, the petitioners are not entitled to any interest for the latter mentioned properties.

3.1. An elaborate counter with typed set of papers have been filed. In the counter, the first respondent has reiterated the same substance or grounds, on the basis of which the award was passed.

3.2. The typed set of papers inter alia contain two sets of land delivery receipts. The first one is dated 23.06.2008 and refers to all the survey numbers that belonged to the petitioners that were part of the acquisition. The second delivery receipt is dated 07.12.2012 and this contains the survey numbers that the petitioners has averred in the affidavit except Survey No.236/1.

4. Mr.A.Zakir Hussain, the learned Government Advocate appearing for the first respondent informed this Court that the delivery receipt dated 23.06.2008, incorporating all the survey numbers of the petitioners is seen scored at the relevant page, and therefore they might have not been taken delivery on the date mentioned and hence the necessity arose for taking possession on 07.12.2012, and a delivery receipt is accordingly prepared.

5. On scrutinizing the relevant page of the first delivery receipt dated 23.06.2008 that contains all except one survey numbers of the petitioners' properties, the same is seen scored with a single line that runs diagonally across the page. However, it is not accompanied by any specific endorsement that the properties were not taken delivery on that date. In all such cases, what is even more important is a Memorandum or Panchanama, which the delivery receipt are supposed to be, the State takes delivery of the possession from the owners of the land, the owners of the land have not signed. In the absence of any material to conclusively indicate that the possession was not taken by the respondents and in the absence of any explanation or any endorsement available for that was sought to be projected through the first delivery list dated 23.06.2008, as regards a line scoring Page No.3 thereof, this Court may not be able to appreciate the defence put forward by the respondent. The critical point is not when the Government has handed over the possession to SIPCOT, but, when the petitioners themselves were dispossessed from their property. Secondly, in a vast acquisition of all adjacent lands, it also does not stand to logic or reason as to why one survey number of the petitioner's property alone was taken in the year 2008 as contended by the respondent and why the rest were not so taken.

6. In these circumstances, this Court accepts the case of the petitioners and accordingly allows the petition quashing the order in Na.Ka.No.91/2015 dated 14.09.2015. The petitioners are further directed to file a fresh representation within two weeks from the date of receipt of a copy of this order and the authorities shall pay interest for all the properties of the petitioners comprised in Survey Nos.236/1, 237/6A, 237/6C, 237/6D and 245/1 of Vengadu Village, Sriperumbudur Taluk, Kancheepuram District from 23.06.2008 till making payment, less any interest amount already paid for any of the lands indicated. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ds

To:

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42, Thirumangai Alwar Street
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Kancheepuram District.

2.The Chairman and Managing Director
Sipcot, Chennai.

+1cc to Mrs.Sudharshana Sundar, Advocate, S.R.No.8945

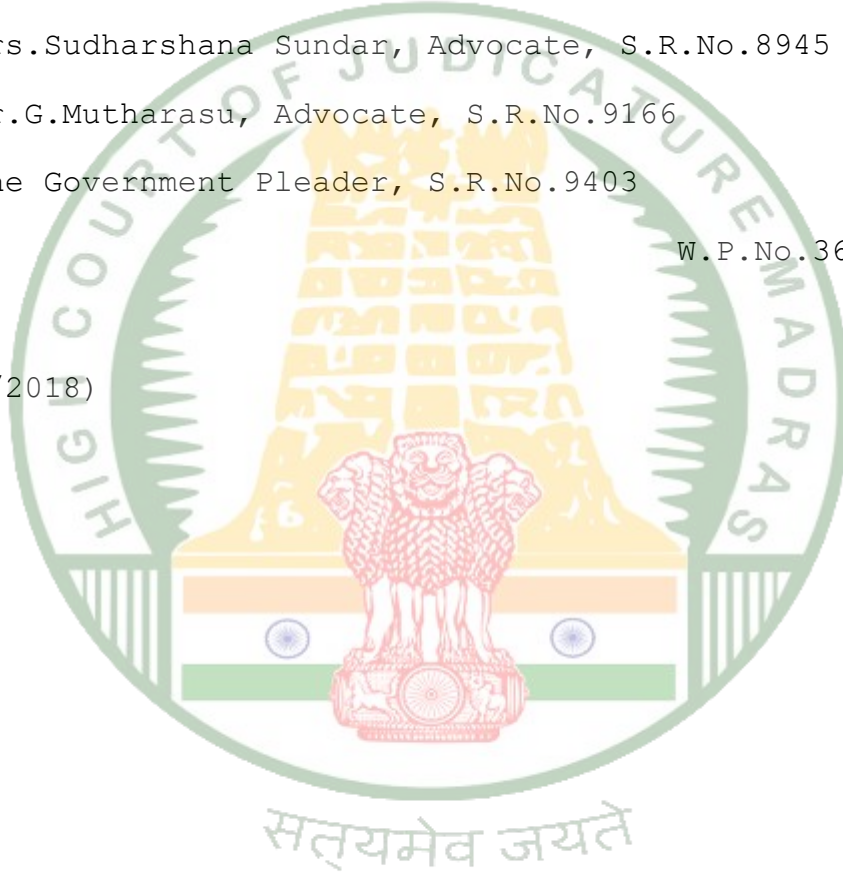
+1cc to Mr.G.Mutharasu, Advocate, S.R.No.9166

+1cc to the Government Pleader, S.R.No.9403

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KK(CO)

RRK(22/03/2018)



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