

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2018

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.5500 of 2016
and WMP.No.4841 of 2016

- 1.Selvi Arokia Mary
- 2.Justine Mariyal
- 3.Sebastiammal

.... Petitioners

-Vs-

- 1.The State of Tami Nadu
Rep by its Secretary to Government
Industries Department
St.George Fort
Chennai - 600 009.
 - 2.The District Collector
Kancheepuram District
Kancheepuram.
 - 3.The Special Tahsildar (Land Acquisition)
SIPCOT, Oragadam Extension Unit I
Sriperumpudur
Kancheepuram District.
 - 4.The State Industries Promotion Corporation
of Tamil Nadu (SIPCOT)
Rep by its Chairman and Managing Director
No.19A, Rukmani Lakshmipathi Road
Chennai - 600 008.
- Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the third respondent and second respondent relating to the acquisition proceedings in respect of the land comprised in S.No.52/69 measuring an extent of 1800 sq.ft. (170 sq.mtrs.) in Oragadam Village, Sriperumbudur Taluk, Kancheepuram District initiated by issuing a notification dated 04.07.2007 under Section 3(1) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act 1997 that came to be published in G.O.Ms.No.177, Industries (SIPCOT-LA) at Tamil Nadu Government Gazette dated 04.07.2007 by the first respondent and also the award of the second respondent dated 02.2.2011 in award No.17/2007 and quash the same and direct the respondents either to redeliver the possession of the property measuring an extent of 1800

sq.ft. (170 sq.mtr.) comprised in S.No.52/69 in Oragadam Village, Sriperumbudur Taluk, Kancheepuram District and pay compensation for the deprivation of our enjoyment from 31.07.2007, the date on which possession was taken till redelivery of possession or in alternative, direct the respondent to issue a fresh notification and award compensation based on the market value as on the date of issuance of such fresh notification in which event interest on the compensation shall be awarded from 31.07.2007, the date of taking possession of property.

For Petitioners : Mr.P.Valliappan
for Mr.S.Ranjith Kumar

For Respondents : Mr.Akhil Akbar Ali
Government Advocate [for R1 to R3]
Mrs.Sudharsana Sundar [for R4]

ORDER

1.1. The petitioners are the heirs of certain Arul, who owned a piece of property in Survey No.52/69 measuring 1800 sq.ft. in Oragadam Village, Sriperumbudur Taluk, Kancheepuram District. This was sought to be acquired for the purpose of formation of an Industrial Estate by the fourth respondent and a notice under Section 3(2) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (T.N Act 10 of 1999) was issued. This was followed by a notification under Section 3(1) of the said Act and the same was gazetted on 04.07.2007, where in petitioner's father Arul was shown to be the owner of the aforesaid property. However, by the time the notice under Section 3(2) of the Act was issued, Arul had passed away. This was followed by a notice dated 18.05.2007 came to be issued to the third petitioner to appear before the third respondent for the enquiry on 25.05.2007 along with the title documents, layout, plan approval etc.,

1.2. On 25.05.2007, the third petitioner appeared before the third respondent and she was forced to agree to the amount mentioned by the third respondent as compensation. The third petitioner however did not consent to this idea, and has submitted before the third respondent that the petitioners would file their written objections. Thereafter, further notices were issued to the petitioners, to which they have sent their replies dated 09.7.2007, 22.04.2008 and 18.02.2009. In the last of the response that the petitioners had sent, it was made known to the Land Acquisition Authority that they were not in a mood to accept the amount proposed. This was in response to the notice dated 02.2.2009 issued by the third respondent. On 18.02.2009, the first petitioner appeared before the third respondent and the third respondent persisted with the earlier contact and insisted the petitioner to accept the compensation amount.

1.3. To the knowledge of the petitioners, no award was passed in terms of the Section 7(3) of the Industrial Purposes Act, 1997, consistent with Section 7(5) and Section 7(6) of the Act thereto. Thereafter, the third respondent/Special Tahsildar (Land Acquisition) informed the petitioners that the compensation amount was fixed at Rs.1,52,500/- by the District Collector and an award was passed before the Lok Adalat. However, the petitioners have not participated in any such Lok Adalat and no copy of the said award too was furnished to the petitioners. The petitioners thereafter attempted to gather information under the provisions of the Right to Information Act, and being tormented for a while they were informed that an award was passed on 02.02.2011. This was a news to the petitioner. Alleging that the petitioners were not served with proper notices under Section 3(2) of the Act and no notice before passing the award was served under Section 7(3) of the Act, the petitioner has filed this petition for issuance of Writ of Certiorari to quash the proceedings.

2. The second respondent has filed counters: On the point of issuance of notice under Section 3(2) of the Act is concerned, it was conceded in the counter that objections of the petitioners were received and on the point of determination of compensation under Section 7(3) of the Act, it is alleged that the award was passed on 02.2.2007.

3. Heard Mr.P.Valliappan, learned counsel for the petitioner and Mr.Akhil Akbar Ali, learned Government Advocate for the respondents.

4. The learned Government Advocate placed before this Court the entire files pertaining to acquisition. In the context of the present case, given the sequence of correspondences/representations of the petitioners to the second respondent, it could be gathered that the petitioners were not against acquisition, and hence it has to be held that this Court cannot quash the notification issued under Section 3(1) at this belated hour. In fact, it has come out in the pleadings that possession too has been taken on 31.07.2007. However, on the point of hearing the petitioners, before passing the award on 02.2.2011 is concerned, the learned Government Advocate brought to the notice of the Court that notice dated 07.12.2009 to the effect that if the petitioners had not agreed to accept the offer price, award would be passed as per Section 7(3) of the Act.

5. The said notice has no answer to the actual notice that is required to be issued to the owners of the land, before holding an enquiry for passing an award in terms of Section 7 (3) of the Act. Here the second respondent was caught on the wrong foot and appeared to have over-simplified the procedure for determining the compensation under Section 7(3), something that runs contrary to the spirit, tone and tenor of the said

provision and in effect has short circuited the whole procedure for passing an award.

6. This Court is satisfied that the petitioners have not been heard in the matter of fixation of compensation at any time prior to the passing of the alleged award dated 02.2.2011. Necessarily, this award cannot be sustained. This Court therefore, allows this petition thereby modifying the prayer. Accordingly, the award dated 02-02-2011 as concerning the petitioners is hereby quashed and the matter is remanded back to the third respondent, who shall now issue proper notice to the petitioners and afford them full and effective opportunity of participating in the enquiry and thereafter determine the compensation. The notice shall be issued to the petitioners at the address given in the petitions, within four weeks from the date of receipt of a copy of this order and the entire exercise of passing the award shall be concluded within twelve weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Post the matter for reporting compliance on 20.06.2018.

ds

Sd/-

Assistant Registrar (CS-V)

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Sub-Assistant Registrar

To:

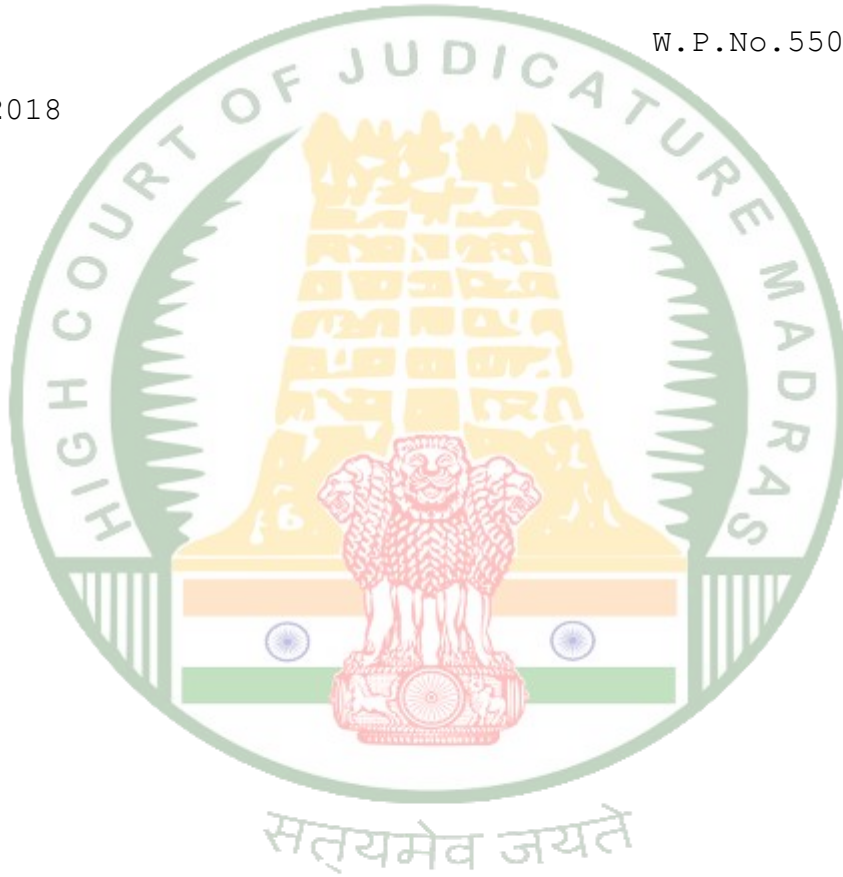
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Rep by its Chairman and Managing Director
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+1CC to MRS.SUDHARSANA SUNDAR Advocate SR.NO.17216
+1CC to the Govt Pleader SR.NO.20057
+2CC to MR.S.RANJEETH KUMAR Advocate SR.NO.16875

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MK:26/03/2018



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