

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.23097 of 2007
and
M.P.No.1 of 2007

Varadhan

...Petitioner

Vs.

1.The District Collector
Kancheepuram District
Kancheepuram

2.State Industries Promotion Corporation
of Tamilnadu Limited (SIPCOT)
Rep. by its Assistant General Manager (Law)
19-A, Rukmani Lakshmipathy Road, Chennai-8

(R2 impleaded as per order dt.19.07.2010 by STJ
in M.P.No.1 of 2010 in W.P.No.23097 of 2007)

.... Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records in Na.Ka.No.9/2007 dated 22.01.2007 and final order dated 14.06.2007 passed by the respondent herein and quash the same as illegal and Direct the respondent to drop the acquisition proceedings against the petitioner's land in No.133, Sennakuppam Village, Survey No.1032.B, measuring about 0.53.5 Hecters (1 acre 37 cents) of land.

For Petitioner : Mr.S.Sankara Subbu

For Respondents: Mr.M.Elumalai
Government Advocate for R1

Ms.Sudharshena Sunder for R2

O R D E R

The Writ petition has been filed by the petitioner, to issue a writ of Certiorarified Mandamus, to issue a writ of Certiorarified Mandamus, to call for the records in Na.Ka.No.9/2007 dated 22.01.2007 and final order dated 14.06.2007 passed by the respondent herein and quash the same as illegal and Direct the respondent to drop the acquisition proceedings against the petitioner's land in No.133, Sennakuppam Village, Survey No.1032.B, measuring about 0.53.5 Hecters (1 acre 37 cents) of land.

2.The case of the petitioner is that he is the owner of the Dry land in No.133, Sennakuppam Village Survey No.1032-B, measuring about 0.53.5 hectares (1 Acre and 37 cents). The said land is a cultivable land and there is a well and pump set for the purpose of irrigation and the said land is the only livelihood for the petitioner's family consisting of his wife and two sons and five daughters. There are about 25 teakwood trees aged about 7 years. It is further averred that the petitioner received a show cause notice in Na.Ka.No.9 dated 22.01.2007 on the file of the respondent herein under Section 3 (2) of Tamilnadu Act 10/99 (Tamilnadu Industrial Purpose Act, 1997). After the show cause notice, the Special Tahsildar issued a notice under Section 4(2) of the Act to surrender and deliver the possession.

3.The learned counsel appearing for the petitioner would submit that the petitioner is belonging to a Harijan and downtrodden community. The petitioner is a small agriculturist and the entire family is depending upon the income of the said land and no other land is available for their livelihood and the entire land has been taken away by the acquisition officer. Normally the agricultural lands should not be acquired for private industrialists. No opportunity was also given to the petitioner before issuing 3(1) notification. Hence, praying for allowing the writ petition.

4.The learned Government Pleader would submit that the petitioner has filed a writ petition challenging the 3(2) notice and 4(2) notice of the said Act. The petitioner has not challenged the 3(1) notification which is unsustainable one. The counter filed on behalf of the 1st respondent stated that the notice under Section 3(2) of the said Act was issued to the petitioner by Registered Post on 23.01.2007. Public Notice in the locality was published on 22.01.2007. As such the petitioner was required to submit his representation / objections if any before 21.02.2007. However, the representation was send belatedly on 08.03.2007 and received in

the Collectorate, Kancheepuram only on 12.03.2007, hence, the same could not be considered. However, the respondent after considering the relevant materials finally decided to recommend the proposal under Section 3(1) of the said Act to the Government for approval. Accordingly, 3(1) proposal was sent to Government and also approved by the Government in G.O.Ms.No.149 (SIPCOT - LA) dt.25.05.2007 and the said notification was also published in the T.N.G.G.-Extra Ordinary No.138 dt. 25.05.2007. Upon such publication of 3(1) notice, notice in Form-E was sent to the petitioner on 14.06.2007 to surrender possession of the land within 30 days from the date of receipt of the above notice.

5.The learned counsel appearing for the SIPCOT would submit that while this court entertained the writ petition, granted stay of acquisition proceedings in respect of the petitioner's land as per orders dated 29.08.2007 and the case was posted to 11.09.2007. As there was no representation for the petitioner on that day, the writ petition in W.P.No.23097 of 2007 was dismissed on 11.09.2007 and the connected W.M.P.No.1 of 2007 was also ordered to be closed. Hence, the possession in Survey No.103/2B of Sennakuppam Village, measuring 0.53.5 hectares was taken possession on 14.09.2007 and the same was handed over to SIPCOT on the very same day. Thereafter, the petitioner filed a petition in M.P.No.2 of 2008 in W.P.No.23097 of 2007 to set aside the order of dismissal and the same was allowed and restored to filed on 19.06.2008.

6.On a perusal of records, it reveals that the petitioner is the owner of the land and has not challenged the 3(1) notification and has only challenged only the 3(2) and 4(2) notice, which is to be issued before 3(1) notification and the petitioner has also not disclosed the fact whether the Special Tahsildar conducted enquiry or any objections were filed, this court is inclined to dismiss the petition.

7.This writ petition stands dismissed accordingly. The liberty is granted to the petitioner to file appropriate writ petition challenging the 3(1) notification in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The District Collector
Kancheepuram District
Kancheepuram

2.The Assistant General Manager (Law)
State Industries Promotion Corporation
of Tamilnadu Limited (SIPCOT)
19-A, Rukmani Lakshmipathy Road, Chennai-8.

+1cc to Ms.Sudharshana Sundar, Advocate Sr.47871
+1cc to Mr.R.Sankarasubbu, Advocate Sr.48135

W.P.No.23097 of 2007
and
M.P.No.1 of 2007

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srg 25/06/2019



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