

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.31378 of 2004 &  
W.P.M.P.No.38031 of 2004 &  
W.V.M.P.No.396 of 2007

Subbayammal

... Petitioner

Vs

1. The State of Tamilnadu,  
Rep. by its  
Special Secretary to Government,  
Industries Department,  
Fort St.George,  
Chennai - 600 009.
2. The Special Commissioner and  
Commissioner of Land Administration,  
Chepauk,  
Chennai - 600 005.
3. The District Revenue Officer,  
Erode District,  
Erode.
4. The Revenue Divisional Officer,  
Erode,  
Erode District.
5. The Special Tahsildar (Land Administration)  
Unit IV  
Tamilnadu Corporation for  
Industrial Infrastructure Development,  
Perundurai Taluk,  
Erode District.
6. State Industries Promotion Corporation  
of Tamilnadu Limited (SIPCOT)  
Rep. by its Assistant General Manager (Law)  
19-A, Rukmani Lakshmipathy Road,  
Chennai - 8.

(R6 impleaded as per order  
dated 25.10.2007 by PSDJ in  
W.M.P.No.693/07 in W.P.No.31378/2004)

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to pass an order of Writ of Certiorarified mandamus, calling for the records of the 1st respondent culminated in and by his proceedings in Government Lr.No.26622/MIJ2/2002-7, dated 15.10.2003 quash the same and consequently directing the respondents to release the lands situated in Survey No.376/1 with an extent of 3.12.5 hectares in Perundurai Village, Perunduarai Circle, Erode District.

For Petitioner :Mr.L.Chandrakumar for  
Mrs.P.T.Ramadevi

For Respondents:Mr.V.Anandamurthy, (for R1 to R5)  
Additional Government Pleader  
Mrs.Sudarshana Sundar for  
Mr.M.Devaraj (for R6)

ORDER

The petitioner's land comprised in Survey No.376/1, Perundurai Village, Perundurai Circle, Erode District was subjected to land acquisitions proceedings and an award was passed on 08.12.1995. In the mean time, the petitioner had challenged the acquisition proceedings in W.P.No.16996 of 1995, which came to be dismissed on 30.07.2002, with liberty to the petitioner to make a representation to the Government, seeking for exclusion of her lands from the acquisition proceedings. The appeal filed against the order of the learned Single Judge also came to be disposed of on 30.12.2002 in W.A.No.3353 of 2002.

2. Subsequently, when the petitioner had made a representation pursuant to the observation made in the aforesaid order, the first respondent herein had rejected the same through an impugned order dated 15.10.2003.

3. The learned counsel for the petitioner submitted that the petitioner's lands were originally recommended by the Revenue Divisional Officer for exclusion, which was also confirmed by the District Revenue Officer through his recommendation dated 28.03.2003, whereby he had observed that the lands comprised in Survey No.376/1 can be excluded from the acquisition.

4. It is the submission of the learned counsel that pursuant to the recommendation of the District Revenue Officer, the Requisitioning Body namely the 6th respondent herein had also expressed their views that the petitioner's lands can be excluded from the acquisition proceedings. As such there was no justification on the part of the first respondent in rejecting the petitioner's request through the impugned order.

5. The learned counsel for the 6th respondent submitted that the petitioner's lands which were already acquired, had culminated in passing of an award and as such the petitioner is not entitled to seek for exclusion at this stage. The learned counsel would further submit that the subject lands are in the middle of a larger extent of land, acquired for the Industrial Growth Centre and very much required to maintain continuity of the scheme area. According to the learned counsel, about 1114.16.5 hectares of land were acquired for SIPCOT Industrial Growth Centre, and the same was developed into industrial plots. Since there is a demand for industrial plots in the Industrial Growth Centre, the petitioner's request should not be considered.

6. I have given careful consideration to the submissions made by the respective counsels.

7. It is not in dispute that during the course of acquisition proceedings, some of the lands adjoining the petitioner's lands were excluded from the acquisition proceedings. When the petitioner had challenged the acquisition proceedings, which ultimately came to be disposed of by the Hon'ble Division Bench of this Court. The observations made in the order in W.A.No.3353 of 2002 in the case of Subbayammal vs the State of Tamilnadu reads as follows:

"2. The lands have been notified for acquisition for the purpose of establishing a growth centre by the Tamil Nadu Corporation for Industrial Infrastructure Development Limited. It is stated that a large chunk of land has been acquired and some lands have been excluded from acquisition after representation by some land owners.

3. We cannot find fault with the order of the learned single judge for upholding the acquisition. But the learned single judge himself, responding to the plea that certain land owners had filed representations and basing upon the said representations, their lands had been excluded, has permitted the appellant to make similar representation to the Government and directed to Government to consider the said representation.

4. We only emphasize the same, adding that the Government shall consider the said representation, and also a further representation to be made in that regard within two weeks from today, and dispose of the same within three months from the date of receipt of the further representation. We also make it clear that pending consideration of the said representation, the appellant shall not be dispossessed from the lands in question."

8. In the light of the observations of the learned Single Judge (before whom the petitioner had originally challenged the acquisition proceedings) as well as the above observation of the Hon'ble Division Bench of this Court, the petitioner had made his representation, seeking for exclusion and not by invoking the provisions of the Act. As such the submission of the learned counsel for the 6th respondent that the petitioner cannot seek for exclusion of the land, after the award has been passed, cannot be sustained, since such a liberty has been granted only through orders of this Court. As a matter of fact, the Hon'ble Division Bench of this Court had also directed the Government to dispose of the petitioner's representation seeking for exclusion within a time frame.

9. Insofar as the submission of the learned counsel for the petitioner that the lands are very much required for their Industrial Growth Centre is concerned, it is seen that pending writ petition, the 6th respondent herein namely SIPCOT had addressed the Government, through a letter dated 31.08.2007, stating that in view of their inability to utilise the land for SIPCOT and also they have already got the approval for SEZ excluding the petitioner's land, they had requested the Government to issue necessary orders for exclusion of the petitioner's lands in Survey No.376/1, subject to obtaining an undertaking from the petitioner that she should withdraw the writ petition. The letter dated 31.08.2007 also forms a part of the original records, which is produced by the learned counsel for the 6th respondent before this Court.

10. From the inception, it is seen that the respondents have been recommending for exclusion of petitioner's portions of land from the lands which were sought to be acquired. The Revenue Divisional Officer had favourably recommended for exclusion of the petitioner's land which was also ratified by the District Revenue Officer in his letter dated 28.08.2003. When the 6th respondent had also expressed their views in their letter dated 31.08.2007 that the petitioner's lands are not required for their utilisation and can be excluded and when the entire case is viewed in the light of the earlier recommendation of the Revenue Divisional Officer and District Revenue Officer for exclusion, I do not find any justification by the first respondent, rejecting the petitioner's application through the impugned order.

11. It may not be out of place to mention here that the original records produced by the learned counsel for the 6th respondent herein before this Court, also evidences a letter of the 6th respondent addressed to the Deputy Secretary to the Government, Industries (MIG.2) Department, Secretariat, Chennai - 600 009, dated 30.04.2018 which also reiterates the statement



that the petitioner's lands can be excluded, since the adjacent lands in Survey No.377 belonging to the Poultry farm have already been excluded. In the light of the above observations, I am of the affirmed view that the petitioner's lands can also be excluded from the acquisition proceedings.

12. For all the foregoing reasons, the impugned order dated 15.10.2003 passed by the first respondent herein, is hereby quashed. Consequently, the first respondent is directed to exclude the petitioner's land in Survey No.376/1, measuring 3.12.3 hectares in Perundurai Village, Perundurai Circle, Erode District, from the acquisition proceedings and carry out the necessary rectification in the original revenue records. Such an exercise shall be completed as expeditiously as possible, in any event, within a period of twelve weeks from the date of receipt of a copy of this order. Accordingly, the writ petition stands allowed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-  
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

vum

To

1. The Special Secretary to Government,  
The State of Tamilnadu,  
Industries Department,  
Fort St.George,  
Chennai - 600 009.
2. The Special Commissioner and  
Commissioner of Land Administration,  
Chepauk,  
Chennai - 600 005.
3. The District Revenue Officer,  
Erode District,  
Erode.
4. The Revenue Divisional Officer,  
Erode,  
Erode District.

5. The Special Tahsildar (Land Administration)  
Unit IV  
Tamilnadu Corporation for  
Industrial Infrastructure Development,  
Perundurai Taluk,  
Erode District.

6. The Assistant General Manager (Law)  
State Industries Promotion Corporation  
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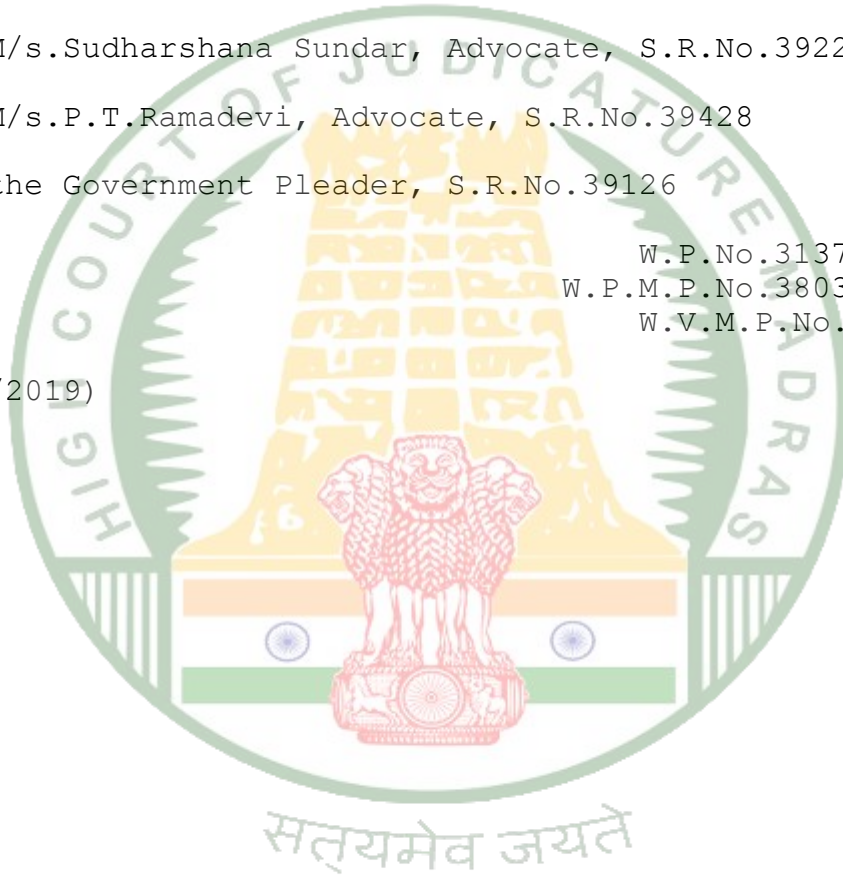
+1 cc to M/s.Sudharshana Sundar, Advocate, S.R.No.39222

+1 cc to M/s.P.T.Ramadevi, Advocate, S.R.No.39428

+1 cc to the Government Pleader, S.R.No.39126

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W.P.M.P.No.38031 of 2004 &  
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SKV(CO)  
SSM(25/06/2019)



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