

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Appeal No.1327 of 2019

Mani Sekar

...Appellant/Petitioner

-vs-

1. The Secretary,
Industries (SIPCOT-LA) Department,
Secretariat, Fort St.George,
Chennai - 600 009.
2. The Managing Director,
SIPCOT, Egmore,
Chennai - 600 008.
3. The District Collector,
Kancheepuram District,
Kancheepuram.
4. The Special Tahsildar (L.A.),
SIPCOT, Unit-I,
Sriperambudhur Expansion Scheme-II,
Sriperambudhur, Kancheepuram District.

...Respondents/Respondents

Writ Appeal filed under Clause 15 of Letters Patent
against the order of this Court in W.P.No.31868 of 2018 dated
21.12.2018.

For appellant : Mr.Greetha Senthilkumar

For respondents : Mr.V.Anandha Murthy,
Additional Government Pleader

JUDGMENT

(Judgment of the Court was delivered by T.S.Sivagnanam, J.)

This appeal by the writ petitioner is directed against
the order in W.P.No.31868 of 2018 dated 21.12.2018.

Prayer in W.P.No.31868 of 2018

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents to refer the matter to the Civil Court for determination of adequate compensation for the acquired lands situated at Palnallur Village (Vadakai A), Yechur Post, Sriperumbudur Taluk, Kancheepuram District, bearing Survey Nos.138/8C, 135/1A and 128/13D under Section 8 of the Tamil Nadu Acquisition of the Land for Industrial Purposes Act, 1997 (Act 10 of 1999)

2. We have heard Mrs.Greetha Senthilkumar, learned counsel for the appellant and Mr.V.Anandha Murthy, learned Additional Government Pleader for the respondents.

3. The appellant filed the writ petition praying for issuance of writ of mandamus to refer the matter to the Civil Court for determination of adequate compensation for the lands acquired from the appellant in Kancheepuram District under Section 8 of the Tamil Nadu Acquisition of the Land for Industrial Purposes Act, 1997 (Act 10 of 1999) [herein after 'the Act' for brevity].

4. The writ petition was dismissed by the impugned order. The learned Single Bench has recorded a finding that it has gone through the agreement entered into by the father of the appellant agreeing to accept the compensation by means of out of Court settlement and the Court therefore held that the compensation has already been settled in terms of Section 7(2) as early as on 09.07.2015 by means of agreement between the appellant's father and the fourth respondent. The appellant cannot maintain a writ petition for such a relief, in the absence of any specific plea of fraud or coercion. The appellant has raised a specific plea stating that the appellant's father passed away on 27.05.2015 and no agreement could have been signed by him on 09.07.2015. Apart from that after his demise, all the legal heirs are entitled to seek for enhanced compensation.

5. It is submitted that one Mr.M.Ramasundharam has signed agreement as Special Tahsildar who was appointed to the said post only in the month of February, 2018. Therefore, he could not have signed on 09.07.2015. In order to ascertain correct factual position, we directed Mr.M.Ramasundharam, Special Tahsildar (LA), SIPCOT, Unit-I, Sriperumbudur Expansion Scheme-II, Sriperambudur, Kancheepuram District to be present in this Court along with affidavit. Accordingly, the Officer is present in the Court and he has filed an affidavit, from which it is clear that he joined in the post of Special Tahsildar only on 07.03.2018. Therefore, he could not have been a consenting party

to an agreement dated 09.07.2015. The explanation offered before us by way of affidavit of the fourth respondent is that the legal heirs had entered into an agreement and signed the agreement because the legal heirship agreement was not produced by that time, the legal heirship certificate was produced only on 25.04.2018. Mr. Ramasundharam has taken charge and he has signed agreement and therefore stand was taken that the parties has accepted the quantum of compensation.

6. In our considered view, there is a clear error committed by the respondents. An agreement to accept compensation had an fixed rate and consent should be candid and unequivocal. There can be no room for interpretation of such consent agreements. Admittedly, the agreement did not fructify into consensus on 09.07.2015. From the affidavit filed by the fourth respondent before us dated 23.04.2019, it is clear that the agreement did not fructify into a consent agreement on 19.07.2018, since adequate documents were not produced. Therefore, unilaterally obtaining signatures from one set of parties, at a subsequent point of time cannot be taken as fully completed agreement and based on consensus.

7. Thus, any interpretation of the factual situation in the present circumstances should lean in favour of the land owner. It is seen that from the year 2009, not a single pie has been paid as compensation either to the appellant's father or to the legal heirs. Thus, it is a fit case where the claim for enhanced compensation has to be referred to the Civil Court.

8. In the result, the writ appeal is allowed, consequently the order passed in the writ petition is set aside and the writ appeal is allowed directing the third respondent/District Collector, Kancheepuram to refer to the Civil Court for determination of higher compensation for the lands acquired from the appellant family situated at Palnallur Village (Vadakal A), Yechur Post, Sriperumbudur Taluk, Kancheepuram District within a period of three weeks from the date of receipt of copy of this order.

Sd/-

Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

mrm

To

1. The Secretary,
Industries (SIPCOT-LA) Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2. The Managing Director,
SIPCOT, Egmore,
Chennai - 600 008.

3. The District Collector,
Kancheepuram Distrct,
Kancheepuram.

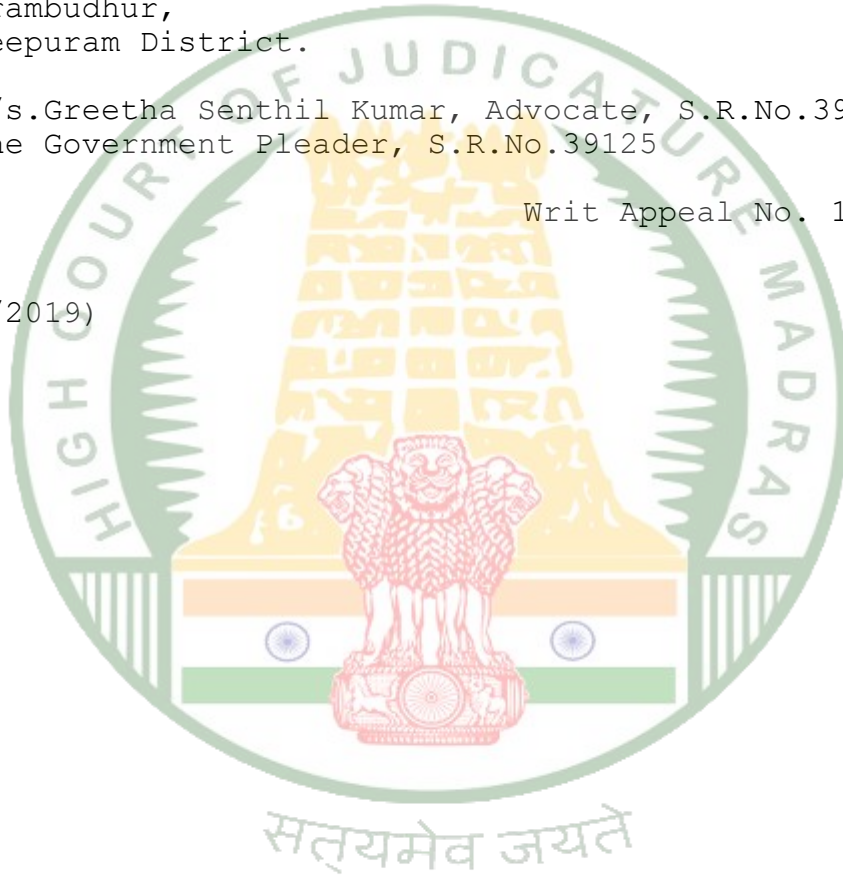
4. The Special Tahsildar (L.A.),
SIPCOT, Unit-I,
Sriperambudhur Expansion Scheme-II,
Sriperambudhur,
Kancheepuram District.

+1cc to M/s.Greetha Senthil Kumar, Advocate, S.R.No.39701
+1cc to the Government Pleader, S.R.No.39125

Writ Appeal No. 1327 of 2019

SKV(CO)

RRS (21/06/2019)



WEB COPY