

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.11157 of 2019

and

W.M.P.Nos.11554, 11556 & 11557 of 2019

B.Sunil Kumar Bhandari

...Petitioner

Vs.

1. The District Registrar,
Krishnagiri,
Krishnagiri District.

2. The Sub Registrar,
Shoolagiri,
Krishnagiri District.

3. The Managing Director,
State Industries Promotion,
Corporation of Tamil Nadu (SIPCOT),
No.19 A, Rukmani Lakshmipathy Road,
Egmore, Chennai - 600008.

4. The Special Tahsildar,
SIPCOT Phase III (Unit - II),
Shoolagiri Taluk,
Krishnagiri District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned communication issued by the 2nd respondent in C.No.174/19, dated 28.03.2019, quash the same and consequently, direct the 2nd respondent to register and release the documents to be submitted by the petitioner in respect of the lands measuring an extent of 0.07.0 Hectare in Survey No.225/2, 0.59.5 Hectare in Survey No.227/2E, 0.35.5 Hectare comprised in Survey No.226/3B2, 0.73.0 Hectare in Survey No.227/2G1, 0.43.0 Hectare in Survey No.227/2G2 and 1.25.0 Hectare in Survey No.227/2I, totalling an extent of 3.43.0 Hectares, i.e. 8.50 Acres, situated at Nallaganakothapalli Village, Shoolagiri Taluk, Krishnagiri District, within the time to be stipulated by this Hon'ble Court.

For Petitioner : Mr.Bharath Kumar R.

For Respondent : Mr.P.P.Purushothaman

Government Advocate for R1 & R2
Ms.Sudharsuna Sundar
Standing Counsel for R3 & R4

O R D E R

Mr.P.P.Purushothaman, learned Government Advocate takes notice for the respondents 1 & 2. Ms.Sudharsana Sundar, learned standing counsel takes notice for the respondents 3 & 4. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner is aggrieved against the communication issued by the second respondent dated 28.03.2019, calling upon the petitioner to obtain "No Objection Certificate" from the SIPCOT authorities for effecting the sale deed executed by the petitioner in favour of a Company. Consequently, the petitioner seeks for a direction to register and release the documents to be submitted by the petitioner in respect of the lands measuring an extent of 0.07.0 Hectare in Survey No.225/2, 0.59.5 Hectare in Survey No.227/2E, 0.35.5 Hectare comprised in Survey No.226/3B2, 0.73.0 Hectare in Survey No.227/2G1, 0.43.0 Hectare in Survey No.227/2G2 and 1.25.0 Hectare in Survey No.227/2I, totalling an extent of 3.43.0 Hectares, i.e. 8.50 Acres, situated at Nallaganakothapalli Village, Shoologiri Taluk, Krishnagiri District.

3. Heard both sides.

4. The learned counsel for the petitioner submitted that though the subject matter lands were originally proposed to be acquired by the SIPCOT, when a writ petition was filed before this Court in WP.No.29323 of 2018 by the petitioner, seeking to declare the acquisition proceedings as illegal and in view of the stand taken by the SIPCOT in the above writ petition, that the petitioner's land is not required by the SIPCOT and that the same will not be acquired, the second respondent is not justified in directing the petitioner to get "No Objection Certificate" from the SIPCOT authorities. The learned counsel has invited this Court's attention to the order passed in WP.No.29323 of 2018 dated 19.03.2019.

5. The learned standing counsel for the SIPCOT, based on instructions, submitted that the petitioner's lands were not the subject matter of acquisition and that there was no proposal for acquisition of the said lands. Therefore, she submitted that the second respondent-the Sub-Registrar, may take note of the above stand of the

SIPCOT and proceed accordingly, on the sale deed to be submitted by the petitioner.

6. The learned Government Advocate for the respondents 1 & 2 submitted that since the above subject matter lands were originally subjected to the land acquisition proceedings, the second respondent sought for "No Objection Certificate".

7. It is seen that the petitioner herein has earlier filed a writ petition before this Court in WP.No.29323 of 2018, questioning the acquisition proceedings initiated for the purpose of SIPCOT. It is further seen that the said writ petition was disposed of on 19.03.2019 as follows:

"Petitioner has sought for a Declaration, declaring the Tamil Nadu Acquisition of Land for Industrial Purpose Act, 1997 (impugned Act, 1997), its Amending Act 2005 along with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement 2013, (Tamil Nadu Amendment) Act, 2014 dated 05.01.2015 (Impugned Amendment Act 1 of 2015) amending and inserting Section 105 (A) read with Annexed Schedule No.5 to the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (New Central Act 2013) as unconstitutional, illegal, redundant and unworkable and did not save the repugnancy of the state act namely the Tamil Nadu Acquisition of Land for Industrial Purpose Act, 1997 (Impugned Act 1997) with the New Central Act, 2013 consequentially declare the acquisition proceedings initiated vide Form-A dated 14.11.2016 in Roc.28303/2016/B2 and Na.Ka.28617/2016/B-2 issued by the 5th respondent invoking the provisions of the Tamil Nadu Acquisition of land for Industrial Purposes Act, 1997 and the proceedings dated 12.05.2017 issued in Na.Ka.11888/2016/B2 by the 5th respondent, as null and void in so far as petitioner's lands measuring an extent of 0.70.0 hectares comprised in Survey No.225/2, 0.59.5 hectare in Survey No.227/2E, 0.35.5 hectares comprised in Survey No.226/3B2, 0.73.0 hectare in Survey No.227/2G1, 0.43.0 hectare in Survey No.227/2G2 and 1.25.0 hectare in Survey No.227/2I totalling an extent 3.43.0 hectare i.e.8.50 acres situate at Nallaganakothapalli Village, Shoologiri

Taluk, Krishnagiri District are concerned.

2. Special Tahsildar(LA), Phase III - Unit-II, SIPCOT, Shoolari Taluk, Krishnagiri District, at Paragraph No.9 of the counter affidavit dated 04.03.2019, has stated as hereunder:-

"9. It is submitted that lateron the Managing Director, SIPCOT has decided to exclude certain lands covered under Phase III of proposed acquisition of lands in the above said villages. Accordingly, the petitioner's lands measuring 3.43.0 hectare in S.No.227/2E, 225/2, 226/3B2/227/2G1, 227/21 of Nallaganakothapalli Village in Shoolagiri Taluk, were excluded and deleted from the acquisition of lands for SIPCOT. Now the petitioners' lands will not be acquired at present. Hence, this writ petition has become infructuous."

3. In view of the specific statement of the Special Tahsildar(LA), Phase III - Unit-II, SIPCOT, Shoolari Taluk, Krishnagiri District, there is no need to issue a declaration. Recording the statement, writ petition is closed. No Costs. Consequently, the connected writ miscellaneous petitions are closed."

8. Perusal of the above said order would show that the SIPCOT has specifically stated before this Court in the said writ petition that the petitioner's land will not be acquired at present and the Managing Director, SIPCOT has decided to exclude certain lands covered under Phase III of proposed acquisition of lands. Therefore, it is evident from the said stand of SIPCOT that the lands belonging to the petitioner is not covered by any acquisition proceedings as on today. Therefore, the second respondent is not justified in seeking "No Objection Certificate" from the SIPCOT for transferring the subject matter lands from the petitioner to the other Company. Thus, I find that the impugned communication cannot be sustained. Accordingly, this writ petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the second respondent to consider the sale deed to be submitted by the petitioner and proceed in accordance with law,

without insisting for "No Objection Certificate" from the SIPCOT. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS iii)

//True Copy//

Sub Assistant Registrar

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To,

1. The District Registrar,
Krishnagiri,
Krishnagiri District.
2. The Sub Registrar,
Shoolagiri,
Krishnagiri District.
3. The Managing Director,
State Industries Promotion,
Corporation of Tamil Nadu (SIPCOT),
No.19 A, Rukmani Lakshmipathy Road,
Egmore, Chennai - 600008.
4. The Special Tahsildar,
SIPCOT Phase III (Unit - II),
Shoolagiri Taluk,
Krishnagiri District.

+1 cc to Government Pleader SR.NO. 37701

+1cc to Mr.Bharath Kumar R. , Advocate SR.No. 37010

+1cc to Ms.Sudharsuna Sundar , Advocate SR.No. 36451

W.P.No.11157 of 2019

A.SK(16/04/2019)

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