

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2020

CORAM :

THE HON'BLE MR.A.P.SAHI, CHIEF JUSTICE
AND

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD
W.A.No.3943 of 2019

- 1.T.Nandadopal
- 2.B.Devi
- 3.A.Sundari
- 4.S.Parthasarathy
- 5.Saraswathy

- 6.M/s.Vishnu Saw Mill,
rep. by G.Patel,
Villupuram Main Road,
Villianur Thanda Chady,
G.N.Palayam, Villanur,
Pondicherry - 605 110.

- 7.K.Suganya

- 8.S.Jothi

- 9.P.Dinakaran

... Appellants/Petitioners

vs.

- 1.The Collector,
Villianur District,
Pondicherry.

- 2.The Sub Collector (Revenue)-cum-
Land Acquisition Officer,
Villianur District,
Pondicherry.

- 3.The Executive Engineer,
National Highways Department,
Public Works Department,
Pondicherry.

- 4.The Government of Pondicherry,
rep. by Secretary,
Public Works Department,
Puducherry.

.. Respondents/Respondents

Appeal filed under Clause 15 of the Letters Patent against the order dated 30.10.2019 passed by the learned Single Judge in W.P.No.26830 of 2019.

Writ Petition is filed under Article 226 of the Constitution of India, praying to issue Writ of Mandamus, directing the respondents herein to forbear from forcibly taking possession of petitioners' lands without following the due procedures provided under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 to acquire and pay the compensation or pay the compensation amount by mutual negotiations with the petitioners in respect of the land pertaining to (1). T.Nandhagopal, Survey No.82/2B, to an extent of 65046 sq.ft (2) B.Devi, Survey No.66/1B, to an extent of 1281 sq.ft (3). A.Sundari, Survey No.66/1B & 66/4B to an extent of 1302 sq.ft (4). S.Parthasarathy, Survey No.65/1 to an extent of 1184 sq.ft (5) R.Manuchozhan, Survey No.68/9B to an extent of 2121 sq.ft, Odhiyampet (6). M/s.Vishnu Saw Mills, Survey No.180/3 to an extent of 786 sq.ft (7). K.Suganaya, Survey No.176/1B/2 to an extent of 4682 sq.ft (8). C.Jothi, Survey No.177/2B to an extent of 5307 sq.ft (9). P.Dinakaran, Survey No.181/2B, to an extent of 5156 sq.ft, Kurumbapet in Pondicherry Taluk & District.

For Appellants : Mr.M.Naraayanaswamy

For Respondents : Ms.N.Mala
Addl. G.P. (Pondicherry)

JUDGMENT
(Delivered by The Hon'ble Chief Justice)

This writ appeal was heard by us on 20.11.2019 and we had passed the following order:

"Having heard learned counsel for the appellants and the learned counsel for the State, we are prima facie satisfied that the impugned judgment of the learned Single Judge is unsustainable inasmuch as from the pleadings on record, it is evident that the State is proceeding to deprive the appellants of their land without following the procedure prescribed under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for brevity, "the 2013 Act").

2. The facts, as unfolded in the judgment impugned itself, indicate that this is the second round of litigation pertaining to the acquisition proceedings, the first round having come to an end with the disposal of W.P.No.7070 of 2010 on 28.1.2016 and its partial reversal in W.A.No.279 of 2016 by judgment dated 16.3.2016.

3. On a conjoint reading of the said two judgments, it is clear that the earlier acquisition proceedings had been declared to have been lapsed and it was left open to the State Government to proceed in the matter.

4. We find that the Government itself negotiated the matter with the appellants and a decision was taken on 26.8.016 to award a certain amount of compensation to the appellants on the basis of the rates offered therein.

5. According to the appellants, it was the State which backtracked from the said negotiations, but, according to the learned counsel for the State, it was the appellants who did not give the undertaking as desired.

6. We are not required to enter into this discussion inasmuch as the fact remains that the negotiations failed and thereafter a conscious decision was taken by the Government to proceed with the acquisition proceedings in terms of the 2013 Act.

7. The appellants have come up contending that so long as the proceedings under the 2013 Act are not concluded in accordance therewith and the award delivered, they cannot be dispossessed from the land on the basis of any urgency in the project to be completed, inasmuch as not only do they have a statutory protection under the 2013 Act to be not dispossessed till the proceedings are concluded in terms of the said Act, but also in view of the constitutional protection under Article 300A of the Constitution of India.

8. The arguments advanced on behalf of the appellants have force and, therefore, we find that the learned Single Judge has not considered the

impact of the provisions of the 2013 Act and the procedure that requires to be followed before taking possession.

9. Accordingly, the appellants are entitled to an interim relief, as the learned counsel for the State prays for an adjournment to obtain instructions in the matter. Until further orders of the Court, status-quo as existing on today insofar as it relates to the lands of the appellants only shall be maintained.

The learned counsel for the State prays that the matter be taken up on 26.11.2019. Let the matter be listed accordingly."

2. The matter came up again on 04.12.2019 and we again passed the following order:

"Learned counsel for the State, on instructions, states that the land is urgently required for the purpose of completing the project. The prayer is therefore to dissolve the interim order granted by this Court dated 20.11.2019.

2. We may consider that, provided the respondents through competent authority, shall file an affidavit, giving an undertaking with regard to the payment to which the appellants are entitled in lieu of the land which has been occupied without there being any acquisition proceedings, as recorded in the order dated 20.11.2019.

3. Learned counsel for the State prays time till 16.12.2019 to file an affidavit to that effect. List the case on 16.12.2019."

3. On 11.02.2020, we had called upon learned counsel for the appellants to inform the Court as to whether payments have been received by them or not. The order dated 11.02.2020 is extracted herein under:

"Ms.N.Mala, learned Additional Government Pleader (Puducherry) has placed before us the instructions received from the Sub Collector, (Revenue) South, Villianur, dated 04.02.2020, stating therein that the award has been delivered on 30.01.2020. A copy of the award has been placed before us. It has also been stated therein that in respect of 9 land owners, an amount of Rs.7,74,27,025/- has been paid on 01.02.2020

through RTGS to the land owners, after receipt of original documents from them.

2.It is further stated therein that physical possession has also been taken and the same has been handed over to the National Highway Division.

3.These facts are sought to be verified by the learned counsel on behalf of 9 appellants herein. The instructions be received, as we do not propose to keep the matter pending any longer in view of the said information tendered by the learned Additional Government Pleader and we also propose to discharge the interim orders to enable the project to proceed further. The appellants may file an affidavit before this Court as to whether they have received the amount or not, by the next date fixed.

Put up on 18.02.2020, as prayed."

4. Today, the appellants have filed an affidavit stating that the amounts have been received, but, according to them, the said amounts are subject to further challenge, which they propose to raise. However, they have not been able to get a copy of the Award.

5. Learned counsel for the respondents submits that the gist of the Award has already been uploaded on the website and a copy of the Award has been handed over to learned counsel for the appellants in Court.

6. In the wake of the aforesaid developments, we see no reason now to entertain the appeal or keep it pending. Without prejudice to the rights of the appellants to challenge the award in accordance with law, the appeal stands consigned to records. Accordingly, the interim order stands discharged. It shall be open to the appellants or the other tenure holders to apply and approach the authorities for issuance of individual Awards. No costs. Consequently, C.M.P.No.24755 of 2019 is closed.

Sd/-

Assistant Registrar (C.S.IV)

/True Copy/

Sub Assistant Registrar

To

1.The Collector,
Villianur District,
Pondicherry.

2.The Sub Collector (Revenue)-cum-
Land Acquisition Officer,
Villianur District,
Pondicherry.

3.The Executive Engineer,
National Highways Department,
Public Works Department,
Pondicherry.

4.The Secretary,
Government of Pondicherry,
Public Works Department,
Puducherry.

+2 cc to M/s.Narayanaswamy,Advocate Sr.No. 13759

+1 cc to The Government Pleader Sr.No. 13897

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W.A.No.3943 of 2019

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