



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2021

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NOS.12645 TO 12649 OF 2012

1. R.Shivarna
... Petitioner in W.P.No.12645 of 2012
2. R.Poonkodi
... Petitioner in W.P.No.12646 of 2012
3. R.Poonkodi
... Petitioner in W.P.No.12647 of 2012
4. R.Shanmuga Velammal & R.Madhana
... Petitioner in W.P.No.12648 of 2012
5. R.Kamatchi @ R.Sudharsana
... Petitioner in W.P.No.12649 of 2012

Vs.

1. The Government of Tamil Nadu,
Rep.by Secretary to Government,
Industries Department,
Fort St.George,
Chennai - 600 009.
2. The District Collector,
Kancheepuram.
3. The Special Tahsildar (LA)
Unit I, SIPCOT, Sriperumbadur,
Expansion Scheme II,
Sriperumbadur,
Kancheepuram District.
4. State Industries Promotion Corporation
of Tamil Nadu Ltd., (SIPCOT)
Rep.by its Managing Director,
19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai - 008.



[R-4 impleaded vide order dated 15.03.2019, made in
WMP.Nos.39081, 39084, 39086 to 39088 of 2018
in W.P.Nos.12645 to 12649 of 2012]

... Respondents in all W.Ps

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Writ Petitions filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, calling for the records of the first respondent herein, viz., the Notification in G.O.Ms.No.64, Industries (SIPCOT-LA) Department dated 12.03.2012 under Section 3(1) of the Tamil Nadu Acquisition of Lands for Industrial Purposes Act, 1997 published in Part II, Section 2 of the Tamil Nadu Government Gazette Extraordinary No.66 dated 12.03.2012 and the notice in Form E under Rule 9 in Rc No.37/2009/A Unit 1 dated 03.04.2012 of the Respondents 2 & 3 herein and quash the same, insofar as it relates to the land in Survey Nos.19/3A, 19/3A, 19/5, 19/3A, 19/3A of No.174, respectively Vadakal 'A' Palnallur Village, Sriperumbadur Taluk, Kancheepuram District.

For Petitioners
in all W.Ps. : M/s.AL.Ganthimathi

For Respondents : Mr.Richardson Wilson
in all W.Ps Government Advocate
(for R-1 to R-3)
: Mrs.Sudarshana Sundar (for R-4)

COMMON ORDER

These petitions have been filed seeking to quash the the Notification in G.O.Ms.No.64, Industries (SIPCOT-LA) Department, dated 12.03.2012 under Section 3(1) of the Tamil Nadu Acquisition of Lands for Industrial Purposes Act, 1997, published in Part II, Section 2 of the Tamil Nadu Government Gazette Extraordinary No.66 dated 12.03.2012 and the notice in Form E under Rule 9 in Rc No.37/2009/A Unit 1 dated 03.04.2012 of the Respondents 2 & 3 herein and quash the same, insofar as it relates to the land in Survey Nos.19/3A, 19/5 of No.174, Vadakal 'A' Palnallur Village, Sriperumbadur Taluk, Kancheepuram District.



2. The case of the petitioners is that they purchased a portion of the land comprised in S.Nos.19/3A, 19/5 of Vadakal 'A' Palnallur Village, Sirperumbadur Taluk, Kancheepuram District (hereinafter referred to as the 'subject properties' for short), vide registered Document Nos.126, 127, 130 and 146 of 2003 and Document No.6732 of 2006, for the purpose of industrial purposes. While that being so, they were served with notice dated 10.12.2009 informing that the land of a total extent of 0.30.0 hectares comprised in Survey No.19/3A and total extent of 0.35.5 hectares comprised in Survey No.19/5 situated at Vadakal 'A' Palnallur Village, Sirperumbadur Taluk, Kancheepuram District, were needed for Industrial purposes viz., Expansion Scheme of SIPCOT, Sriperumbadur Industrial Estate and hence, the notice under Section 3(2) of the Tamil Nadu Acquisition of Lands for Industrial Purposes Act, 1997 (hereinafter referred to as 'the Act', for short) was issued calling for objections within a period of 30 days. Though the notice under Section 3(2) of the Act is dated 10.12.2009, the petitioners sent letter of objections on 25.02.2010, 01.03.2010 and 11.03.2010. The written objections were duly served on the respondents. Thereafter, on the their objections, the respondents did not call for any remarks from the requisitioning body and without conducting any enquiry, the respondents simply passed orders and issued notification under Section 3(1) of the Act. Therefore, the notifications under Section 3(1) of the Act and notice in Form-E issued under Rule 9 of the Tamil Nadu Acquisition of Land for Industrial Purposes Rules, 2001, are under challenge in these Writ Petitions.

3. On a perusal of the counter affidavit filed by the second respondent, it reveals that Form-A notice under Section 3(2) of the Act was approved on 10.12.2009 and sent to the petitioners by RPAD on 25.01.2010. Form-B notice under Section 3(2) of the Act was also approved on 10.12.2009 and published in the locality between 17.12.2009 and 18.01.2010. The said Form-B notice under Section 3(2) of the Act was published in two local dailies viz., the New Indian Express on 13.01.2010 and Tamil Daily Dhinanthi on 14.01.2010 respectively. The date of conducting enquiries on the objections received, was also notified as 12.02.2010. 7 objections were received in person and remaining 52, have already been received by post. All the 59 objections have been taken for scrutiny and the opinion of the requisitioning body was also obtained on those objections.



WEB GATEWAY

Thereafter, they conducted enquiry on 12.02.2010 and the petitioners did not attend the enquiry and they did not send any objections against the acquisition. After considering the objections and remarks from the requisitioning body and after approval, notification under Section 3(1) of the Act was published on 12.03.2012. Form-E notice was also approved and the same was published on 03.04.2012 and the same was served on 17.04.2012.

4. Admittedly, the notice as required under Section 3(2) of the Act dated 10.12.2009 in Form-A was issued to the petitioners on 25.01.2010. It is also evident from the objections dated 25.02.2010 sent by RPAD by the petitioners that notice dated 10.02.2009 under Section 3(2) of the Act was received on 01.02.2010. On receipt of the same, the petitioners had sent their written objections by RPAD on 25.02.2010. They also annexed the acknowledgement by the respondents. Therefore, as far as the petitioners are concerned, they were served with notice under Section 3(2) of the Act on 01.02.2010. Hence, they were not given 30 days time for filing their objections and Form-B notice was approved on the same day viz., on 10.12.2009 and published in two local dailies on 13.01.2010 and 14.01.2010 respectively. Thus, it is clear that the notice under Section 3(2) of the Act was sent only on 25.01.2010 to the petitioners. It is also evident from Form-A which is annexed along with typed set of papers, that the third respondent signed it only on 11.01.2010. Though the learned counsel for the first to third respondents contended that, in the counter affidavit, they wrongly stated that the date as 25.01.2010 with regard to notice sent under Section 3(2) of the Act and the records it reveals that the said Form-A notice was signed by the Collector viz., the second respondent herein on 10.12.2009 itself.

5. On a perusal of the said Form-A issued to the petitioners, it is seen that the third respondent signed it only on 11.01.2010. Thereafter, the respondents had sent the notice only on 25.01.2010, which was received by the petitioners on 01.02.2010. Therefore, they were not given 30 days time for raising their objections and the respondents had conducted enquiry on 12.02.2010 itself. Therefore, the proceedings are vitiated and are liable to be quashed.



6. In view of the above discussion, the impugned proceedings are set aside. Accordingly, these Writ Petitions are allowed. The matter is remanded back to the respondents for issuance of fresh notice only in respect of the petitioners' land in their respective survey numbers alone. The respondents are directed to issue fresh notice as contemplated under Section 3(2) of the Act and strictly adhere to the Rule 6 of the Rules framed under the said Act and complete the enquiry proceedings within a period of 12 weeks from the date of receipt of a copy of this order and pass orders on merits and in accordance with law. No costs.

Sd/-
Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

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To

1. The Secretary to Government,
The Government of Tamil Nadu,
Industries Department,
Fort St.George,
Chennai - 600 009.
2. The District Collector,
Kancheepuram.
3. The Special Tahsildar (LA)
Unit I, SIPCOT, Sriperumbadur,
Expansion Scheme II,
Sriperumbadur,
Kancheepuram District.
4. The Managing Director,
State Industries Promotion Corporation
of Tamil Nadu Ltd., (SIPCOT)
19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai - 008.

+1cc to M/s.AL.Ganthimathi, Advocate, S.R.No.45147

+1cc to the Government Pleader, S.R.No.45557

W.P.Nos.12645 to 12649 of 2012

AK(CO)
RLP(12/10/2021)