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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P. NO.2831 OF 2019
AND
W.M.P.NO.3097 OF 2019

1.Fathima Gani

2.Najima Banu

...Petitioners

-Vs-

1.The Government of Tamil Nadu
Rep by its Chief Secretary to Government,
Secretariat,
Fort George,
Chennai - 600 009.

2.The District Collector,
Kancheepuram District,
Kancheepuram.

3.The Special Tashildar
(Land Acquisition)
SIPCOT Oragadam Expansion
Scheme - Phase-4,
Sriperumbudur.

...Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct the respondents for providing fair compensation for the lands of the petitioners comprised in Extent of vacant plot bearing No.11, Extent 2800 sq.ft., in the layout formed and known as "Sree Thirupurasundari Nagar" approved by C.S.A.R./ D.T.C.P.(M) 85/51/LP-27 comprised in survey No.91/2D (As per patta No.1431 in New Sub-Division Survey No.91/2 B1A2) situated at Pillaipakkam Village Sriperumbudur Taluk, Kancheepuram District within the Registration District of Kancheepuram and sub-registration district of Sriperumbudur under the Right to Fair Compensation Act, 2013.

For Petitioners : Mr.R.Karunakaran



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For Respondents

For R1 & R2

:

Ms.D.Tamilselvi

Additional Government Pleader

For R3

:

Mr.Sudharshana Sundar,

ORDER

This Writ Petition has been filed to direct the respondents for providing fair compensation for the lands of the petitioners comprised in Extent of vacant plot bearing No.11, Extent 2800 sq.ft., in the layout formed and known as "Sree Thirupurasundari Nagar" approved by C.S.A.R./ D.T.C.P.(M)85/51/LP-27 comprised in survey No.91/2D (As per patta No.1431 in New Sub-Division Survey No.91/2 B1A2) situated at Pillaipakkam Village, Sriperumbudur Taluk, Kancheepuram District within the Registration District of Kancheepuram and Sub-registration district of Sriperumbudur under the Right to Fair Compensation Act, 2013.

2. The case of the petitioners is that the land comprised in survey No.91/2D situated at Pillaipakkam Village, Sriperumbudur Taluk, Kancheepuram District, bearing Plot No.11, to an extent of 2800 sq.ft., was purchased by them by the registered Sale Deed dated 27.06.2008 vide document No.9247 of 2008. The said land was under acquisition by the respondents for the industrial purpose. However, the petitioners were not served any notice as such, the petitioners approached the third respondent for clarification and he had revealed that the respondents will pay a sum of Rs.200/- per sq.ft., with interest of Rs.100/- per sq.ft. Since it is very meager, the petitioners submitted representation to the respondents to pay compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ie., Act 30 of 2013 (hereinafter called as "the new Act"). However, the petitioners received compensation of Rs.7,40,000/- and thereafter, the respondents did not consider the request of the petitioners. Therefore, the petitioners filed this Writ Petition with the above said prayer.

3. Heard Mr.R.Karunakaran, learned counsel appearing for the petitioners and Ms.D.Tamilselvi, learned Additional Government Pleader appearing for the respondents 1 & 2 and Mr.Sudharshana Sunder, learned counsel appearing for the third respondent.

4. On perusal of the counter filed by the respondents revealed that the Government of Tamil Nadu accorded administrative sanction for acquisition of land to an extent of 603.53.0 hectares under Section 17(1) of the Land Acquisition Act, 1894 (hereinafter called as "the Old Act") and transfer of



an extent of 147.35.5 hectare promboke lands in favour of the State Industries Promotion Corporation of Tamilnadu Limited (hereinafter called as "SIPCOT") for setting up an industrial complex, Irrungattukottai and in two other adjoining villages in Sriperumbudur Taluk, Kancheepuram District.

5. Pursuant to the above said acquisition, the notice under Section 3(1) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (hereinafter called as "the Act") was issued in the year 2008-2009. However, insofar as the lands comprised in survey Nos.91 to 94, the notice under Section 3(1) of the Act was issued in the month of March, 2013 and the possession was taken by the second and third respondents on 09.07.2013 and the same was handed over to the fourth respondent on 22.07.2013. The new Act came into force from 01.01.2014 and the State Government has issued G.O.Ms.No.88 Revenue LA-I(i) Department, dated 21.02.2014 reading Section 24(1) of the new Act. The first respondent has also issued G.O.(Ms.)No.45, Industries (SIPCOT-LA) Department dated 14.05.2014 regarding further action in the cases where process under the Act was initiated, thereby instruction has been given for granting interim compensation for all cases, where acquisition of land is taken up under the Act, should be determined based on procedure already in vogue subject to additional compensation being paid as per the provisions of the New Act.

6. Accordingly, pending assent, to provide fair compensation, rehabilitation and resettlement, the Government have now decided that the provisions of the New Act, relating to determination of compensation in accordance with the first schedule and rehabilitation and resettlement specified in the second and third schedules being beneficial to the affected families, shall apply to the cases of land acquisition where the notice under Section 3(2) of the Act published on or after 01.01.2014. Subsequently, the Bill LA.No.30 of 2014 was given assent on 01.01.2015 and hence now the determination of compensation should be in accordance with schedule I and rehabilitation and resettlement satisfied in schedule II and III, being the beneficiaries to the affected families, shall apply only to the cases of land acquisition under the New Act.

7. That apart, Section 21 of the Act is clear that the provision of the Old Act shall not apply for the lands acquired under the industrial purposes. Therefore, the stand taken by the petitioners cannot be considered. By the amendment Act, the Act was brought under Schedule V and Section 105A has been introduced in the New Act. Hence, the petitioners' claim cannot be considered and the Writ Petition is devoid of merits and is liable to be dismissed. However, the petitioners are at liberty to seek enhancement of compensation in the manner known to law.



8. Accordingly, the Writ Petition stands dismissed. Consequently, connected miscellaneous petition is also closed. There shall be no order as to costs.

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Sd/-
Assistant Registrar (CS-IX)

// True Copy //

Sub Assistant Registrar

rts

To

1.The Chief Secretary to Government,
Government of Tamil Nadu
Secretariat, Fort George,
Chennai - 600 009.

2.The District Collector,
Kancheepuram District,
Kancheepuram.

3.The Special Tashildar (Land Acquisition),
SIPCOT Oragadam Expansion Scheme - Phase-4,
Sriperumbudur.

+1cc to M/s.Sudharsana Sunder, Advocate SR.No.66813

+1cc to the Government Pleader Sr.No.67529

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and W.M.P.No.3097 of 2019

RLD(CO)
RVM(06/01/2022)