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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2021

CORAM

THE HON'BLE Mr.JUSTICE G.K. ILANTHIRAIYAN

W.P.Nos.31386 & 31387 of 2013
and M.P.Nos. 1 & 2 of 2013
and M.P.Nos. 1 & 2 of 2013

A.Parsuvanathan

.... Petitioner in
W.P.No.31386 of 2013

P.Kamalasundari

.... Petitioner in
W.P.No.31387 of 2013

Vs

1. The Secretary to Government of Tamil Nadu,
Industries Department,
Fort St.George,
Chennai - 600 009.
2. The Collector,
Thiruvannamalai District,
Thiruvannamalai - 606 601.
3. Special Tahsildar (Land Acquisition),
SIPCOT Expansion (Unit III),
Cheyyar.
4. Chairman & Managing Director,
State Industries Promotion Corporation
of Tamil Nadu Ltd.,
(SIPCOT),
No.19A, Rukmani Lakshmipathi Salai,
Egmore, Chennai - 600 008.

.... Respondents in both W.Ps

Prayer in W.P.No.31386 of 2013: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records pertaining the impugned notification issued by the first respondent under Section 3 (1) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 being G.O.Ms.No.128, Industries (SIPCOT-LA) dated 25.06.2013 for acquiring the petitioner's land Plot No.48, Om



Shakti Nagar Layout, measuring to an extent of 0.23.5 ares comprised in S.No.58A/6 and 0.07.5 ares comprised in S.No.61A, in total 1290 sq.ft (0.31.0 ares) in No.135, Mangal Village, Cheyyar Taluk, Thiruvannamalai District and the connected consequential order dated 13.08.2013 issued by the third respondent under Section 4(2) of the said Act directing the petitioner to hand over of possession of the said property to the second respondent within 30 days and quash the same.

Prayer in W.P.No.31387 of 2013: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records pertaining the impugned notification issued by the first respondent under Section 3 (1) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 being G.O.Ms.No.128, Industries (SIPCOT-LA) dated 25.06.2013 for acquiring the petitioner's land Plot No.26, Om Shakti Nagar Layout, measuring to an extent of 1755 sq.ft. (0.32.0 ares) comprised in S.No.58A/2 in No.135, Mangal Village, Cheyyar Taluk, Thiruvannamalai District and the connected consequential order dated 13.08.2013 issued by the third respondent under Section 4(2) of the said Act directing the petitioner to hand over of possession of the said property to the second respondent within 30 days and quash the same.

For Petitioners

in both W.Ps : Mr.Aravind for Mr.Karthik Mukundan

For R1 & R2 in

both W.Ps : Mr.Richardson Wilson
Government Advocate

For R3 & R4 in

both W.Ps : Mr.Sudharshana Sunder

O R D E R

W.P.No.31386 of 2013 has been filed to issue a Writ of Certiorari calling for the records pertaining the impugned notification issued by the first respondent under Section 3(1) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 being G.O.Ms.No.128, Industries (SIPCOT-LA) dated 25.06.2013 for acquiring the petitioner's land Plot No.48, Om Shakti Nagar Layout, measuring to an extent of 0.23.5 ares comprised in S.No.58A/6 and 0.07.5 ares comprised in S.No.61A, in total 1290 sq.ft (0.31.0 ares) in No.135, Mangal Village, Cheyyar Taluk, Thiruvannamalai District and the connected consequential order dated 13.08.2013 issued by the third respondent under Section 4(2) of the said Act, directing the petitioner to hand over of possession of the said property to



the second respondent within 30 days and quash the same.

2. W.P.No.31387 of 2013 has been filed to issue a Writ of Certiorari calling for the records pertaining the impugned notification issued by the first respondent under Section 3(1) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 being G.O.Ms.No.128, Industries (SIPCOT-LA) dated 25.06.2013 for acquiring the petitioner's land Plot No.26, Om Shakti Nagar Layout, measuring to an extent of 1755 sq.ft. (0.32.0 ares) comprised in S.No.58A/2 in No.135, Mangal Village, Cheyyar Taluk, Thiruvannamalai District and the connected consequential order dated 13.08.2013 issued by the third respondent under Section 4(2) of the said Act directing the petitioner to hand over of possession of the said property to the second respondent within 30 days and quash the same.

3. Heard, Mr.Aravind, learned counsel appearing for the petitioner, Mr.Richardson Wilson, learned Government Advocate appearing for the first and second respondents and Mr.Sudharshana Sander, learned counsel appearing for the third and fourth respondents.

4. Arising out of the same acquisition proceedings, batch of writ petitioners filed by the other land owners in W.P.Nos.26088, 26089, 29748 and 29749 of 2013 by an order dated 29.11.2013, set aside the notification issued in G.O.Ms.No.128, Industries (SIPCOT-LA), dated 25.06.2013 under Section 3(1) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997. These writ petitions were left out. Since, these writ petitions are also challenged the very same notification issued in G.O.Ms.No.128, Industries (SIPCOT-LA), dated 25.06.2013 under Section 3(1) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997, in view of the order passed by this Court in W.P.Nos.26088, 26089, 29748 and 29749 of 2013, dated 29.11.2013, they are also liable to be allowed.

5. The relevant portion of the order passed by this Court in W.P.Nos.26088, 26089, 29748 and 29749 of 2013, dated 29.11.2013, is extracted hereunder :

" 38. From the files, it is quite clear that the erstwhile land owners, Mr.P.Chandran and Mr.K.Venkataraman, to show their bonafides and earnestness, have filed their reply, dated 10.02.2009, stating that the abovesaid properties have been plotted into house sites and that the entire extent of lands have been sold to various persons. The erstwhile land owners have also stated that the sale is pursuant to a proper approval from Vembakkam Panchayat Union. They have made their objections to the District Collector,



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Thiruvannamalai that for the lands already sold, they cannot take any responsibility and further requested the District Collector to issue fresh notices to the subsequent purchasers. In their reply, they have further stated that if the lands are acquired, without putting the vendors on notice, the investors would be affected.

39. Right given to the owners or persons interest, to object to the land acquisition proceedings, which is not an empty formality. Though the authorities were informed of the sale of the lands to 109 house sites and 74 shops, by the erstwhile owners, they have not taken any efforts to ascertain the particulars of the real owners and issued notices under Section 3(2) of the Act. When admittedly, the erstwhile owners have informed to the District Collector, Thiruvannamalai that they have already sold the disputed lands and further submitted that the purchasers would be affected, if the lands are acquired, without hearing them, the authorities have failed to exercise the statutory duty under Section 3(2) of the Act, which does not confer any discretion on the authorities to dispense with the enquiry, after giving due notices, to the owners of the lands. At this juncture, it is relevant to consider that the purchases made by the petitioners, were prior to the acquisition proceedings.

40. A notification issued under Section 3(2) of the Act, becomes effective, if only the names of the real owners are included in such notification. It is true that mutation has not been effected in the revenue records, but there is sufficient information about the sales affected to many persons. When the legislature has mandated to issue notices to the land owners and hear their objections, then the said provision is mandatory. The principle of audi alteram partem, ought to have been followed.

41. The purpose of giving personal hearing cannot be compared with the publication in any Gazette. While depriving a person of his property, a constitutional right, the heart of the Tamil Nadu Acquisition of Land for Industrial Purposes Rules, 2001, rests on Section 3 (2) of the Act, wherein, consideration of objections and personal hearing of the land owner, is mandatory. On the facts and circumstances, it is not a case, where the respondents were not put on notice of the sales and therefore, they were not aware of the same.

42. Though the District Collector, Thiruvannamalai,



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in this counter affidavit, has made an attempt to defend the breach of the principle of audi alteram partem and violation of the mandatory provision of issuance of a notice, under Section 3(2) of the Act and failure to provide an opportunity of hearing, the most essential element in Land Acquisition Laws, he has categorically admitted that after due verification of the encumbrances, the purchase made by the petitioners were brought to the notice and that they were included as interested persons in notice in Form-E issued under Section 4(2) of the Act. The exercise of verification from the encumbrance could have been done, immediately after the statement given by the erstwhile owners. Thus, by his own admission, the District Collector, Thiruvannamali, has admitted that the names of the petitioners and others, were included only in the notification issued under Section 3(1) of the Act, though even at the time of enquiry, under Section 3(2) of the Act, the authorities were put on notice about the sales effected to the petitioners and interested persons.

43. From the above, it is manifestly clear that after the completion of process of enquiry, under Section 3(2) of the Act, the respondents have verified the encumbrance, regarding the purchases made by the petitioners and others. Had this verification been done, immediately after the reply, dated 10.02.2009, submitted by the erstwhile owners, Mr.P.Chandran and Mr.K.Venkataraman, the respondents could have sent the notices to the land owners, enabling them to make their objections to the land acquisition proceedings.

44. Therefore, from the above, it could be deducted that though a paper publication was made, by including the names of the erstwhile owners and though the respondents were put on notice about the sale effected by the erstwhile owners, there is a violation of the statutory duty cast upon the respondents, as contemplated under Section 3(2) of the Act and the real owners have been kept in darkness, about the acquisition proceedings, till they were called upon to submit their objections to the notice, issued under Section 4(2) of the Act, i.e., during award enquiry.

45. Having had the knowledge of the sale, in respect of the same properties by many persons, the respondents have thought it fit not to make any enquiry about the real owners or interested persons, till they were called for enquiry under Section 4(2) of the Act



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and subsequently, included them in Section 3(1) notification, which in the humble opinion of this Court, is a deliberate violation. Though the petitioners have raised other grounds, challenging the impugned proceedings, as the records revealed, a clear violation of Section 3(2) of the Act, this Court, at this juncture, has not adverted to the same, for the reason, any observation on the remaining issues, would have an impact, on the proceedings, now directed to be taken by the authorities."

6. Following the same, the impugned notification issued by the first respondent under Section 3(1) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 being G.O.Ms.No.128, Industries (SIPCOT-LA) dated 25.06.2013, is hereby set aside. The respondents are at liberty to proceed afresh, thereby giving opportunity to the writ petitioners by issuing notices to them and after considering their objections, pass orders afresh on merits and in accordance with law.

7. With the above directions, these Writ Petitions stand allowed. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS V)

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Sub Assistant Registrar

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To

1. The Secretary to Government of Tamil Nadu,
Industries Department,
Fort St.George,
Chennai - 600 009.
2. The Collector,
Thiruvannamalai District,
Thiruvannamalai - 606 601.
3. The Special Tahsildar (Land Acquisition),
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4. The Chairman & Managing Director,
State Industries Promotion Corporation
of Tamil Nadu Ltd.,
(SIPCOT),
No.19A, Rukmani Lakshmipathi Salai,
Egmore, Chennai - 600 008.

+1cc to the Government Pleader, S.R.No.43410

W.P.Nos.31386 & 31387 of 2013
and M.P.Nos. 1 & 2 of 2013
and M.P.Nos. 1 & 2 of 2013

AK(CO)
CT(28/09/2021)