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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.601 of 2016

1. R.Soundararajan
2. S.Jamuna

... Petitioners

Vs

1. The State of Tamil Nadu
represented by
The Commissioner & Secretary to Government,
Revenue Department, Fort St.George,
Chennai - 600 009.
2. The Collector,
Salem District, Salem - 1.
3. The Revenue Divisional Officer,
Mettur, Salem District.
4. The Commissioner & Secretary to Government,
Small Scale Industries Department,
Fort St.George,
Chennai - 600 009.
5. The Chairman & Managing Director,
Tamil Nadu Small Industries Development Corporation Limited,
SIDCO Complex,
Thiru. Vi. Ka.Industrial Estate,
Guindy, Chennai - 600 032.
6. The Branch Manager,
Tamil Nadu Small Industries Development Corporation Limited,
(SIDCO), Five Road,
Salem - 636 004.

...Respondents

Prayer : Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of MANDAMUS directing the first respondent to invoke the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and consequently



direct the 5th respondent to re-allot the plot No. 23, in S.No. 45/2 - Part, Karuppur Village, Salem District at free of cost instead of Plot No. 1 in Karuppur Village, Salem District in the allotment order dated 09.11.2015 by passing orders on the representation dated 22.12.2015.

For Petitioners : Mr.G.Justin

For Respondents : Mr. M.R. Gokul Krishnan,
1 to 4 Government Advocate

For Respondents : Mr. S.P. Prabhakaran
5, 6

O R D E R

This writ petition has been filed to issue a Writ of MANDAMUS to direct the first respondent to invoke the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and consequently, direct the 5th respondent to re-allot the plot No. 23, in S.No. 45/2 - Part, Karuppur Village, Salem District at free of cost instead of Plot No. 1 in Karuppur Village, Salem District in the allotment order dated 09.11.2015, by passing orders on the representation dated 22.12.2015.

2. The case of the petitioners is that the first petitioner's grandfather owned a land to an extent of 2 acres, 31 ½ cents in Survey No.45/2 situated at Karuppur Village, Salem District. The said land was acquired during 1964 - 1965 by the Government for the purpose of establishing Government Engineering College. In view of the fact, the total extent of 500 acres of lands were acquired from various land owners. All the procedures were duly followed and award has been passed. Aggrieved by the same, all the land owners were filed objections before the referral Court. The referral Court enhanced the compensation at the rate of Rs.7,000/- (Rupees Seven Thousand only) per acre from Rs.3,430/- (Rupees Three Thousand Four Hundred and Thirty only) per acre. In O.P.No.11 of 1966, it was also enhanced with usual solatium and interest. However, the Government of Tamil Nadu filed an appeal before this Court in A.S.No.181 of 1969 and the same was dismissed on 20.02.1975.

3. Further, the case of the petitioners is that the said award amount due to the first petitioner's grandfather was wrongly calculated and deposited only a sum of Rs.10,195.33 instead of Rs.14,795.33. Further, the interest at the rate of



4% from 12.10.1965 till the date of deposit was also not deposited in the account of the first petitioner's grandfather.

4. The first petitioner's grandfather also filed a petition and the same was dismissed on 20.08.1981. In the execution proceedings, the first petitioner's grandfather received the amount, which was deposited by the Government in R.E.A. No. 339 of 1976. Therefore, the first petitioner's grandfather is not fully settled with the compensation amount as awarded by the referral Court.

5. Thereafter, the fifth respondent developed the said land for the purpose of Industrial Estate for women entrepreneurs and sold away the plots to various persons. The petitioner intended to start a Herbal based Industry and as such, they gave an application dated 29.04.2003 requesting to allot a developed plot in S.No.45/2. In fact, the petitioners also filed a writ petition before this Court, in W.P.No. 13631 of 2003. This Court, by an order dated 29.04.2003, directed the respondents to consider the representation of the petitioner within a period of eight weeks from the date of receipt of a copy of this order.

6. Thereafter, the petitioners also made representation on 19.02.2008 for allotment of plot. Accordingly, the third respondent herein by an order dated 09.11.2015 allotted plot No. 1 measuring to an extent of 23 cents at the cost of Rs.45,08,500/- and also directed the second petitioner to deposit 25% of cost of the land on or before 08.01.2016 apart from EMD already deposited.

7. The learned Counsel for the petitioner would submit that by the communication dated 07.10.2008, the Principal Secretary to the Government has sent a communication to the first respondent stating that the original land was acquired for formation of Government Engineering College and the said land subsequently transferred to the Periyar University and Periyar University handed over to the SIDCO, namely, the fifth respondent herein. The SIDCO, without observing any formalities, has acquired the Land. Therefore, there was a procedure lapse and as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter called "New Act"), a direction may be issued to the fifth respondent to re-allot the land comprised in S.No.45/2 part in Karuppur Village, Salem District at free of costs interest of Plot No.1, Karuppur Village, Salem District.



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8. He further submitted that as per the New Act, if compensation amount not paid, the acquisition proceedings was lapsed and in case, the amount was not deposited in the account of beneficiaries, then the beneficiaries will be entitled to compensation as per the New Act.

9. On perusal of the records reveal that the first petitioner's grandfather was awarded a compensation of Rs.3,430/-, per acre. On his objections, the matter was referred before the referral Court and compensation was enhanced to Rs.7,000/- per acre. Though it was challenged by the Government, which was dismissed by this Court dated 20.02.1975. Thereafter, the first petitioner's grandfather also filed Execution Petition R.E.A.No. 339 of 1976, in which, the respondents deposited a sum of Rs.10,195.33 after a period of 40 years. The first petitioner being a grandson of his grandfather, namely, Thandavaraya Gounder, filed a writ petition on the ground that his grandfather was not fully paid entire compensation and there is a dispute with regard to the calculation of interest.

10. For the past 40 years, the first petitioner's grandfather and other legal heirs left and handed over the matter and now filed this writ petition saying that his grandfather was not paid compensation fully. On the request made by the petitioners, the second respondent was allotted plot No.23 by the third respondent by an order dated 09.11.2015 at the cost of Rs.45,08,500/-. So far the petitioners did not deposit any amount as directed by the respondents herein. On the above said ground, now the petitioners asked for re-allotment of the plot No.23 comprised in Suvey.No. 45/2 part Karuppur Village, Salem District that too on free of cost.

11. Admittedly, the first petitioner's grandfather was paid compensation and now the petitioners disputed the amount which was deposited and received by his grandfather with regard to interest portion. There is no part of evidence to show that the respondents committed any fault while depositing the award amount and while calculating award amount with solatium interest.

12. That apart, after 40 years the petitioners are disputing the award, which was already deposited and received by the first petitioner's grandfather. If at all any grievances with regard to interest portion, the first petitioner's grandfather or other legal heirs ought to have raised issue before the execution Court. Therefore the request of the petitioners cannot be considered now that too after period of 4 decades. Therefore, this writ petition is devoid on merits and liable to be dismissed.



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13. Accordingly, this writ petition is dismissed. No order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rna/rgi

To

1. The Commissioner & Secretary to Government,
Revenue Department, Fort St.George,
Chennai - 600 009.
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Tamil Nadu Small Industries Development Corporation Limited,
(SIDCO), Five Road,
Salem - 636 004.

+1CC to Mr.S.P.Prabhakaran, Advocate, Sr.No.47979
+1CC to Mr.Government Pleader, Sr.No.48202

W.P.No.601 of 2016

VG-II (CO)
K.RK. (25.10.2021)