IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.7200, 7201, 7202, 7612, 7613, 7220 & 7221 of 2016

Juby M.Mathew ...Petitioner in WP No.7200 of 2016

Lilly Mathew ...Petitioner in WP No.7201 of 2016

Kurian Anthrayose ...Petitioner in WP No.7202 of 2016

Robin P. Alex ...Petitioner in WP No.7612 of 2016

Manoj Mathew ...Petitioner in WP No.7613 of 2016

V.Sisupalan ...Petitioner in WP No.7220 of 2016

P.K.Mathew ...Petitioner in WP No.7221 of 2016

Vs

1.The Principal Secretary to Government,
Government of Tamil Nadu,
Fort St. George,
Chennai – 600 009.

2.The Special District Revenue
Officer (L.A.,), SIPCOT,
Oragadam Expansion Scheme,
19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai – 600 008.

3.The District Collector,
Kancheepuram District,
Kancheepuram.

4.The Special Tahsildar (L.A.),
SIPCOT, Unit – II,
Oragadam Expansion Scheme,
Sriperumbudur. ...Respondents in all WPs

Prayer in WP No.7200 of 2016 :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, Calling for the records in pursuance of the G.O.Ms.No.189, Industries (SIPCOT- LA), dated 16.10.2008 published in the Tamil Nadu Government Gazette Extraordinary dated 16.10.2008 in respect of the petitioner's land in Kaliaperumal Nagar, Phase-I, in Survey No.123/2, measuring an extent of 1838 sq.ft. in Plot No.36 in 133 Chennakuppam Village, Sriperumbudur Taluk, Kancheepuram District.

Prayer in WP No.7201 of 2016 : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, Calling for the records of the first respondent in pursuance of the G.O.Ms.No.189, Industries (SIPCOT-LA), dated 16.10.2008 published in the Tamil Nadu Government Gazette Extraordinary dated 16.10.2008 in respect of the petitioners land in Kaliaperumal Nagar, Phase-I, measuring 2400 Sq.ft in Plot No.14 and 2368 Sq.ft. in Plot No.15, in all 4768 Sq.ft. in Survey No.123/2, 2400Sq.ft. in Plot No.18 and 2400 Sq.ft. in Plot No.19, in all 4800 Sq.ft. in Survey No.123/2, 1199 Sq.ft. in Plot No.16 and 2400 Sq.ft. in Plot No.17, in all 3599 Sq.ft. in Survey No.123/2, and 2400 Sq.ft. in Plot No.13 in Survey Nos.123/2 and 120/1D, in 133, Chennakuppam Village, Sriperumbudur Taluk, Kancheepuram District.

Prayer in WP No.7202 of 2016 : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, Calling for the records of the first respondent in pursuance of the G.O.Ms.No.189, Industries (SIPCOT-LA), dated 16.10.2008 published in the Tamil Nadu Government Gazette Extraordinary dated 16.10.2008 in respect of the petitioners land in Kaliaperumal Nagar, Phase-I, in Survey No.123/1B, measuring an extent of 2498 Sq.ft. in Plot No.49 and 2220 Sq.ft. in Plot No.50, in all 4718 Sq.ft. and 2400 Sq.ft. in Plot No.51 in Survey No.123/1B and 2400 Sq.ft. in Plot No.52 in Survey No.123/2, in all 4800 Sq.ft. in 133, Chennakuppam Village, Sriperumbudur Taluk, Kancheepuram District.

Prayer in WP No.7612 of 2016 : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, Calling for the records of the first respondent in pursuance of the G.O.Ms.No.189, Industries (SIPCOT-LA), dated 16.10.2008 published in the Tamil Nadu Government Gazette Extraordinary dated 16.10.2008 in respect of the petitioners land in Kaliaperumal Nagar, Phase-I, in Survey No.123/1B, measuring 2291 Sq.ft. in Plot No.45 and 2460 Sq.ft. in Plot No.46, in all 4751 Sq.ft. and 2550 Sq.ft. in Plot No.47 and 2660 sq.ft. in Plot No.48, in all 5210 sq.ft. in Survey No.123/1B in 133, Chennakuppam Village, Sriperumbudur Taluk, Kancheepuram District.

Prayer in WP No.7613 of 2016 : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, Calling for the records of the first respondent in pursuance of the G.O.Ms.No.189, Industries

(SIPCOT-LA), dated 16.10.2008 published in the Tamil Nadu Government Gazette Extraordinary dated 16.10.2008 in respect of the petitioners land in Kaliaperumal Nagar, Phase-I, measuring 2340 Sq.ft. in Plot No.38 in Survey No.123/2 and 2700 sq.ft. in Plot No.39 in Survey No.123/1B in all 5040 Sq.ft. 1480 Sq.ft. in Plot No.40, 1600 sq.ft. in Plot No.41 and 1943 sq.ft. in Plot No.44, in all 5023 sq.ft. in Survey No.123/1B and 3038 sq.ft. in Plot No.42 and 2250 sq.ft. in Plot No.43, in all 5288 sq.ft. in Survey No.123/1B, in 133, Chennakuppam Village, Sriperumbudur Taluk, Kancheepuram District.

Prayer in WP No.7220 of 2016 : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, Calling for the records of the First Respondent in pursuance of the G.O.Ms.No.189, Industries (SIPCOT-LA), dated 16.10.2008 published in the Tamil Nadu Government Gazette Extraordinary dated 16.10.2008 in respect of the Petitioners land in Kaliaperumal Nagar, Phase-I, in Survey No.123/2, measuring 1242 Sq.ft. in Plot No.30 and 1278 Sq.ft. in Plot No.31, in all 2520 Sq.ft. in 133, Chennakuppam Village, Sriperumbudur Taluk, Kancheepuram District.

Prayer in WP No.7221 of 2016 : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, Calling for the records of the First Respondent in pursuance of the G.O.Ms.No.189, Industries (SIPCOT-LA), dated 16.10.2008 published in the Tamil Nadu Government Gazette Extraordinary dated 16.10.2008 in respect of the Petitioners land in Kaliaperumal Nagar, Phase-I, in Survey No.123/2, measuring an extent of 1453 Sq.ft. in Plot No.35 and 2040 Sq.ft. in Plot No.37, in all 3493 Sq.ft. in 133, Chennakuppam Village, Sriperumbudur Taluk, Kancheepuram District.

For Petitioners
in all WP's : Mr.M.S.Subramanian

For R1, R3 & R4
in all WP's : Mr.Richardson Wilson
Government Advocate.

For R2
in all WP's : M/s.Sudarshana Sunder

COMMON ORDER

These Writ Petitions have been filed to issue a writ of certiorari calling for the records in pursuance of the G.O.Ms.No.189, Industries (SIPCOT- LA), dated 16.10.2008 published in the Tamil Nadu Government Gazette Extraordinary dated 16.10.2008 in respect of the petitioners' lands and quash the same.

2. All the petitioners have purchased their respective plots by the registered sale deeds situated at Chennakuppam Village, Sriperumbudur Taluk, Kancheepuram District. All the petitioners have been in possession and enjoyment of the same. The said lands of the petitioners have been proposed for land acquisition as per the State Government orders. The Government have accorded administrative sanction for the acquisition of land ad-measuring 91.07.0 hectares of wet land and ad-measuring 34.90.0 hectares of dry land in Oragadam and Sennakuppam village of Sriperumbudur Taluk, Kancheepuram District for expansion of Oragadam Industrial Park by fourth respondent under the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (hereinafter called as "The Act") in G.O.Ms.No.139, Industries (MIG-2) Department, dated 03.11.2006. Under Section 3(1) of the Land Acquisition Act, the Government Gazette dated 16.10.2008 was published. Thereafter, issued notice to the petitioners under Section 7(2) of the Act to proceed thereon with follow up actions under Sections 7(3) and 7(7) of the Act. The Award for payment of compensation has been passed on 29.10.2014, after providing sufficient opportunities to the petitioners to explain in writings about their objections, if any, and also about the land value fixed by the land acquisition authority. The petitioners had not come forward to agree with the payment fixed under Section 7(2) of the Act and the land acquisition process have been finalized and award was issued on 29.10.2014. The value of the land has been fixed as Rs.50/- per sq.ft., based on the sale certificates. However, the petitioners have claimed that the land value has to be fixed at Rs.1000/-. According to the petitioners, they were not served a copy of the award and no notice was issued to receive the compensation determined by the authority. Now, the petitioners have challenged the award on the ground that it being not in accordance with the Act 30 of 2013, since it came into force on 01.01.2014.

3. Mr.M.S.Subramanian, the learned counsel for the petitioners submitted that, the award came to be passed on 29.10.2014 which later on coming into force of the Central Act 30 of 2013 (01.01.2014). The proviso applies only to the awards made prior to 01.01.2014. The notification having been initially made in G.O.Ms.No.189 Industries (SIPCOT-LA) dated 16.10.2008 published in the Taminadu Government Gazette on 16.10.2008, the determination of compensation made on 29.10.2014 as mentioned above is highly belated and renders the compensation illusory and unreasonable. The Section 7 of the Act provides for determination of amount and Section 7(2) provides for an agreement that may be reached between the Government and the person to whom the amount is payable. The Section 7(3) provides that if no such agreement is reached, the Government should refer the case to the Collector for determination of the compensation. The Section 7(6) of the Act

provides that in determining the amount, the Collector shall be guided by the provisions contained in Sections 23 and 24 and other relevant provisions of the Land Acquisition Act, 1894. The Land Acquisition Act, 1894 has been repealed by Section 114 of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter called as " The Act 30 of 2013"). It has came into force on 01.01.2014. The Act 30 of 2013 having repealed, the Land Acquisition Act, 1894 to which reference is made in Section 7(6) of the Act, Sections 23 and 24 of the Land Acquisition Act, 1894 cannot be availed of, when acquisition is made under the Act especially after 01.01.2014. The Central Act 30 of 2013 having come into force on 01.01.2014, the existing Act has become repugnant and is void to the extent of repugnancy as per the Article 254(1) of the Constitution of India. The Act itself become void as and from 01.01.2014 in as much as the beneficial provisions of Act 30 of 2013 have not been provided for by any notification under the Tamil Nadu Act within one year after 01.01.2014. Therefore, there cannot be any valid acquisition or an award under the Act after coming into force of the Act 30 of 2013.

3.1 He further submitted that the Government of Tamil Nadu has made an amendment to the Act 30 of 2013 by Tamil Nadu Amendment Act 1 of 2015, thereby, new provisions under Section 105A and also Fifth Schedule have been introduced to the Central Act 30 of 2013. Accordingly, the provisions of the Central Act 30 of 2013 shall not apply to enactment relating to land acquisition specified in the Fifth Schedule. The sub-section (1) of Section 105 of the Central Act 30 of 2013 is subject to sub-section (2). It provides that the State Government within one year from the date of commencement of the State Amendment Act shall direct that the provisions of the Central Act relating to determination of compensation in accordance with the First Schedule and Rehabilitation and Resettlement specified in the Second and Third Schedules shall apply to acquisition under the enactments specified in the Fifth Schedule. Therefore, the Sections 23 and 24 of the Land Acquisition Act, 1894 being not any more available in the Act namely the Tamil Nadu Acquisition of Land for Industrial Purposes Act, the said provisions cannot be invoked for determining the market value of the land. Therefore, the compensation determined in the acquisition proceedings is not in accordance with the Act 30 of 2013.

3.2 He further submitted that under the Central Act 30 of 2013, the compensation payable under Section 26 of the said act being the market value if any specified in the Indian Stamp Act, or the average sale price in the nearest village or vicinity or consented amount of compensation whichever is higher and read with the explanations to the said provision and sub-section 2 which provides for a multiplier factor as enacted in the First Schedule together with 100% solatium under Section 30 and a 12% additional amount from the date of notification till the date of the Award. He further submitted that the State Government of Tamil Nadu enacted the Act 38 of 2019 to revive the operations of the Tamil Nadu Acquisition of Land for retaining the Welfare Schemes Act, 1978, the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1987 and the Tamil Nadu Highways Act, 2001. Even then under Section 6(1) of the Act 38 of 2019, all the provisions of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 except the provisions relating to the determination of compensation shall stand revived with effect on and from 26.09.2013. Section 6(2) provides that all rules, notifications, notices, orders, directions issued or any other proceedings initiated under the Act except relating to determination of compensation which were in force immediately before 26.09.2013 shall, for all purposes, be deemed to have been revived on and from 26.09.2013. Therefore, the Award dated 29.10.2014 passed under the Act is not valid and liable to be set aside. Therefore, he prayed for re-determination of the value of the land which was acquired under Section 26 of the Central Act 30 of 2013. In support of his contentions he also relied upon the judgment of the Hon'ble Supreme Court of India in (Civil Appeal No. 1462 of 2019 arising out of S.L.P. (C) No. 14820 of 2017) dated 05.02.2019.

4. Per contra, the respondents filed counter and Mr.Richardson Wilson, Government Advocate appearing for the respondent 1, 3 & 4 stated that the land belong to the petitioners have been proposed for expansion of Oragadam Industrial Park by the fourth respondent under the Act. Accordingly, the notification was issued under Section 3(1) of the Act on 16.10.2008. The same was published in the Tamil Nadu Government Gazette No. 307 dated 16.10.2008. After publication of Section 3(2) Gazette notification under Section 7 of the Act, notices were issued and proceeded thereon with follow up actions under Sections 7(3) & 7(7) of the Act. Accordingly, the award was passed on 29.10.2014 after providing sufficient opportunities to the petitioners. However, the petitioners have not come forward to agree with the payment fixed under Section 7 (2) of the Act and the acquisition process have been finalized and the award amount is still kept in civil deposit so as to make the payment at any time if claims received. The land value has been fixed at Rs.50/- per sq.ft., and however, the petitioners claimed that the land value has to be fixed at Rs.1000/- per sq.ft. The acquisition of lands have been completed and possession have been handed over to the fourth respondent as on 07.12.2008 and almost all the land owners have received the compensation way back in the year 2012 before the notification of the Central Act 30 of 2013 on 01.01.2014. The

Government have passed G.O.Ms.No.251 dated 31.12.2014 that pending assent to the Central Act 30 of 2013 relating to the determination of compensation in accordance with the First Schedule and Rehabilitation specified in 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. As such the reckoning compensation amount under the Central Act 30 of 2013 will not apply to the case on hand. The majority of the land owners have been paid compensation prior to 01.01.2014, i.e., the date of implementation of Central Act 30 of 2013 under Section 7(2) of the Act. Only a part of the land owners have not been paid compensation as on 01.01.2014, because of non submission of agreement under Section 7(2) of the Act. Therefore, the compensation under the Central Act 30 of 2013 is not tenable and valid in law.

4.1 The learned Government Advocate further submitted that before the Act 38 of 2019, the State Government passed an Act 36 of 2019 dated 26.08.2019. Accordingly, the Section 24 of the Central Act 30 of 2013 in sub-section 2 under the proviso, the proviso and explanations added and accordingly nothing contained in this sub-section shall apply in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 where the land acquisition or dispossession of land is under litigation before the Court as on 01.01.2014 or where the land owner has not made any claim for compensation or has not claimed the compensation amount as on 01.01.2014 or where the possession of the land has been taken but the land or any portion thereof has been later encroached or where physical possession or any portion of the land has not been taken on account of any encroachment. He further submitted that after struck down provisions under Section 105 of the Central Act 30 of 2013, the State Government enacted the Act 38 of 2019 to re-validate the acts which were repealed by the Central Act 30 of 2013.

4.2. He further submitted that the Hon'ble Division Bench of this Court while struck down the provision under Section 105A of the Central Act 30 of 2013, thereafter the revalidation Act came into force from 26.09.2013. Therefore, the petitioners are not entitled to claim compensation under the Central Act 30 of 2013. Therefore, he prayed for dismissal of the Writ Petitions.

5. Heard Mr.M.S.Subramanian, learned counsel appearing for the petitioners, Mr.Richardson Wilson, Government Advocate appearing for the respondents 1, 3 and 4 and M/s. Sudarshana Sunder learned counsel appearing for the second respondent.

6. The land belong to the petitioners were acquired for the expansion of Oragadam Industrial Park by the fourth respondent herein under the Act. The notice as contemplated under Section 3(1) of the Act was notified on 16.10.2008. Thereafter, issued notices to the petitioners under Section 7(2) of the Act and proceeded thereon with follow up actions under Sections 7(3) and 7(7) of the Act. The award for payment of compensation has been passed on 29.10.2014 as per the powers envisaged under Section 7(3) of the Act. Thereafter, the award amount has been kept in Revenue Deposit. As per the award, the land value has been fixed as Rs.50/- per sq.ft. Whereas the petitioners claimed compensation to be fixed at Rs.1000/- per sq.ft. After completion of entire acquisition proceedings, the lands had been taken possession from the petitioners and handed over to the fourth respondent as early as on 07.12.2008.

7. Though, these Writ Petitions have been challenging the acquisition proceedings, the learned counsel for the petitioners restricted their claim only with regard to the determination of compensation under the Central Act 30 of 2013. The award has been passed in respect of the petitioners' land on 29.10.2014 much later than coming into force of the Central Act 30 of 2013 i.e. 01.01.2014. Therefore, the proviso under Section 24 of the Central Act, 30 of 2013 does not apply since the award passed under the Act in respect of petitioner's land after coming into force of Central Act, 30 of 2013.

8. Section 7(6) of the Act provides that in determining the amount, the Collector shall be guided by the provisions contained in Sections 23 and 24 of the Land Acquisition Act, 1894. The Land Acquisition Act has been repealed by Section 114 of the Central Act 30 of 2013 and it has come into force on 01.01.2014. Therefore, the Central Act 30 of 2013 having been repealed the Land Acquisition Act 1894, to which reference is made in Section 7(6) of the Act, Sections 23 and 24 of the Land Acquisition Act,1894 cannot be availed of when acquisition is made under the Act after 01.01.2014. The Act has become repugnant and is void to the extent of repugnancy as per Article 254(1) of Constitution of India. The Government of Tamil Nadu has made an amendment and a new provision under Section 105A and also Fifth Schedule have been introduced to the Central Act 30 of 2013. The same read as follows:

> “105-A. Provisions of this Act not to apply to certain Tamil Nadu Acts or to apply with certain modifications-(1) Subject to sub-section (2), the provisions of this Act shall not apply to the enactments relating to land acquisition specified in the Fifth Schedule.
>
> (2) The State Government shall, by Notification, within one year from the date of commencement of this

Act, direct that any of the provisions of this Act, relating to the 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 under the enactments specified in the Fifth Schedule or shall apply with such exceptions or modifications that do not reduce the compensation or dilute the provisions of this Act relating to compensation or rehabilitation and resettlement as may be specified in the Notification, as the case may be.

(3) A copy of the Notification proposed to be issued under sub-section (2) shall be laid in draft before the Legislative Assembly of the State of Tamil Nadu and if the Legislative Assembly agrees in disapproving the issue of the Notification or the Legislative Assembly agrees in making any modifications in the Notification, the Notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by the Legislative Assembly."

3.Additional of Fifth Schedule - After the Fourth Schedule to the Principal Act, the following Schedule shall be added, namely:

The Fifth Schedule:

List of Tamil Nadu enactments regulating land acquisition in the state of Tamil Nadu

1. The Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (Tamil Nadu Act 31 of 1978).
2. The Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (Tamil Nadu Act 10 of 1999).
3. The Tamil Nadu Highways Act, 2001 (Tamil Nadu Act 34 of 2002)."

9. However, the said amendment was struck down by the Hon'ble Divison Bench of this Court in the case of Caritas India Vs Union of India reported in 2019 (4) CTC 737, wherein it is held as follows.

158.1. Contention of petitioners that the President failed to apply his mind while granting assent to Section 105-A of the New Act, cannot be accepted.

158.2. The Petitioners have also not demonstrated, how and why the impugned State Acts were arbitrary in nature, and liable to be stuck down on the ground of being manifestly arbitrary.

158.3. However, the Writ Petitioners before us ultimately succeed because, Article 254(1) by its operation rendered the impugned Tamil Nadu Legislations repugnant, and null and void, as on the date on which the New Act was made, i.e. 27.09.2013, the date of making of the New Act, as held in the case of State of Kerala v Maar AppraemKuri Co. (Supra) and therefore the impugned Acts do not survive.

158.4. By enacting Section 105-A of the New Act, the State of Tamil Nadu could not have revived the three state Acts, that had become repugnant as on 27.09.2013.

158.5. In order to revive these acts, the State must re- enact these statutes, in accordance with Article 254(2) of the Constitution of India, and obtain the assent of the President. Merely, by inserting Section 105-A and the 5th Schedule, in the new Act, these impugned enactments do not get revived. Since this had admittedly not been done, the Acts remain repugnant, and Article 254(1) renders them inoperative.

158.6. In view of the requirements of Article 254 (2) of the Constitution of India, Section 105-A of the New Act, is virtually otiose. Since We have already held that Section 105-A has not revived the State Acts, the validity of Section 105-A per se, need not be examined by us.

158.7. The provisions of Section 105A(2) and (3) are mandatory in view of the necessity of complying with these provisions. The State Government has failed to make the necessary notifications, as contemplated under 105A(2) and as such the provisions of Section 105A(2) have not been satisfied. Since the notifications have not been made under sub-section (2) the requirement of sub-section (3) i.e. placing the draft notifications before the State Legislature has also obviously not been met. We therefore hold, that the requirements of Section 105A(2) & (3) have not been satisfied, and as such the insertion of the enactments in the 5th Schedule of the new Act, was not done in accordance with law.

158.8. Consequently, all the acquisitions made under the three impugned enactments made on or after 27.09.2013, are held to be illegal and quashed save those lands which have already been put to use and the purpose for which the land was acquired has been accomplished.

10. Therefore, the Government of Tamil Nadu enacted the Act 38 of 2019 dated 05.12.2019 in which Part-II deals with the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997. Section 6 reads as follows:

> Section 6 (1) All the provisions of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (hereinafter referred to as the 1999 Act), except the provisions relating to the determination of compensation, shall stand revived with effect on and from the 26th day of September 2013.
>
> (2) All rules, notifications, notices, orders, directions issued or any other proceedings initiated under the 1999 Act, except those relating to determination of compensation which were in force immediately before the 26th day of September 2013 shall, for all purposes, be deemed to have been revived on and from the 26th day of September 2013.
>
> (3) The provisions relating to the determination of compensation as specified in the First Schedule, rehabilitation and resettlement as specified in the Second Schedule and infrastructure amenities as specified in the Third Schedule to the Right to Fair Compensation and Transparency in land Acquisition, Rehabilitation and Resettlement Act, 2013 shall apply to the land acquisition proceedings under the 1999 Act.

11. Accordingly, all the provisions of the Act except the provisions relating to the determination of compensation shall stand revived with effect from 26.09.2013. The Sections 23 and 24 of the Land Acquisition Act, 1894 being not anymore available in the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997, the said provisions cannot be invoked for determining the market value of the land. There is no provisions other than Section 7(6) of the Act for determination of compensation or the measure of amount payable. The entire acquisition under the said Act offends Article 300A of the Constitution of India. Under Section 26 of the Central Act 30 of 2013, the compensation has to be determined being the market value, if any, specified in the Indian Stamp Act, or the average sale price in the nearest village or vicinity or consented amount of compensation whichever is higher and read with the explanations to the said provision and sub-section 2 which provides for a multiplier factor as enacted in the First Schedule together with 100% solatium under Section 30 and a 12% additional amount from the date of the notification till date of the award.

12. In this regard, the learned counsel for the petitioners relied upon the judgment in the case of Hori Lal Vs. State of Uttar Pradesh & Ors. in Civil Appeal No.1462 of 2019 dated 05.02.2019, wherein the Hon'ble Supreme Court of India held as follows:

> 10. The main challenge of the appellant to the acquisition proceedings was that the entire

acquisition proceedings initiated by the respondent State on the strength of notification issued on 30.10.2002 under Section 4 of the Act, 1894 which eventually led to passing of the award on 30.06.2016, stood lapsed consequent upon the repeal of the Act, 1894.

11. It is pertinent to mention here that during the hearing before the High Court, the writ petitioner (appellant herein) expressly gave up his challenge to the acquisition proceedings and confined his challenge only to the manner in which the determination of the compensation was done by the Land Acquisition Officer and, in consequence, to its quantum.

12. The State, in the counter affidavit filed before the High Court, placed reliance on the order of the Central Government issued under Section 113 of the Act, 2013 and contended that the compensation payable to the appellant would be determined on the basis of market value as it was prevalent on 01.01.2014. .

13. The above case had arisen under the Land Acquisition Act, 1894 and the declaration made under Section 6 on 29.11.2003. However, the award had been passed on 30.06.2016 i.e., after the Central Act 30 of 2013 which came into force on 01.01.2014. Therefore, aggrieved by the entire acquisition proceedings including the passing of award filed writ petition. Though the Hon'ble High Court dismissed the writ petition, the Hon'ble Supreme Court of India held that the appellants would be entitled to compensation determined by the competent authority in accordance with the procedure prescribed under the Central Act 30 of 2013.

14. In the case on hand, the learned counsel for the petitioners restricted the challenge under this Writ Petition only with regard to the manner in which the determination of compensation was done by the Land Acquisition Officer and in consequence, to its quantum. Therefore, the above judgment is squarely applicable to the case on hand and the petitioners are entitled for the compensation under the Central Act 30 of 2013. Further, already the possession has been taken over and the entire acquisition proceedings have been over.

15. Accordingly, the award dated 29.10.2014 alone is set-aside insofar as the determination of market value of the property belonged to the petitioners alone. The third respondent is directed to determine the value of the properties of the petitioners in consonance with the provisions under Section 26 of the new act i.e. The Right to Fair Compensation and

Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and pay the compensation within a period of twelve weeks from the date of receipt of copy of the order. It is made clear that the third respondent is directed to issue proper notice to the petitioners and after giving them the opportunity of hearing and determine the value by passing award within a period of twelve weeks from the date of receipt of copy of this order.

16. With the above directions, these Writ Petitions are partly allowed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

lok/mn

To

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

2.The Special District Revenue
Officer (L.A.,), SIPCOT,
Oragadam Expansion Scheme,
19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai - 600 008.

3.The District Collector,
Kancheepuram District,
Kancheepuram.

4.The Special Tahsildar (L.A.),
SIPCOT, Unit - II,
Oragadam Expansion Scheme,
Sriperumbudur.

+7ccs Mr.M.S.Subramanian, Advocate SR.No.48060 to 48066

+1cc to the Government Pleader SR.No.48222

W.P.No.7200,7201,7202,7612,7613,7220 & 7221 of 2016

VBM(CO)
RVM(29/11/2021)