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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.11108, 11109 of 2017

and

W.M.P.Nos.12039 to 12042 of 2017

M/s.Thiruvarangan Spintex Pvt. Ltd.,
Represented by its Director, V.Navaneetha Krishnan,
2/121, Bombay Nagar,
Narasimhanaickanapalayam,
Coimbatore - 641 031.

...Petitioner in W.P.No.11108 of 2017

D.Rajeswari

...Petitioner in W.P.No.11109 of 2017

Vs

1. The Principal Secretary to Government,
Transport Department, Secretariat,
Chennai - 600 009.
2. The District Collector,
Collectorate Building,
Coimbatore - 641 018.
3. The Special Tahsildar, Land Acquisition,
Coimbatore Airport Runway Expansion,
Collectorate Building,
Coimbatore - 641 018.
4. Indian Overseas Bank,
Dr.Nanjappa Road Branch (0419),
Kings Complex, Church Compound,
Dr.Nanjappa Road,
Coimbatore - 641 018.

...Respondents in both WP's

Common Prayer : Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of declaration that the rate decided by the Collector under the Land Acquisition, 1894 Act r/w Section 7(6) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 as provided in the RTI reply dated 03.02.2017 as illegal and arbitrary and consequently to direct the respondents I, II and



III to determine the compensation payable to the petitioner according to the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 and pay the same together with interest within a time frame stipulated by the Court.

For Petitioner : M/s.P.Bagyalakshmi
in both WP's

For Respondents : Mr.Richardson Wilson,
in both WP's Government Advocate
RR 1 to 3

R4 : Mr.K.K.Siva Shanmugam

C O M M O N O R D E R

This writ petitions have been filed to issue a Writ of declaration that the rate decided by the Collector under the Land Acquisition, 1894 Act r/w Section 7(6) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 as provided in the RTI reply dated 03.02.2017 as illegal and arbitrary and consequently to direct the respondents I, II and III to determine the compensation payable to the petitioner according to the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 and pay the same together with interest within a time frame stipulated by the Court.

2. The case of the petitioners is that they purchased 0.62 acres of land in SF.No.241/1, 256/2B, 256/2C, Avinashi Road, Chinniampalayam Road, Coimbatore in the name of the company and 2.44 acres comprised in SF.No.241/1, 256/2C in the name of the petitioner in W.P.No.11109 of 2017. Thereafter, they constructed factory building and the machinery was purchased by availing of a term loan to begin their operations.

3. Thereafter, they came to understand that the first respondent proposed to acquire land admeasuring 612.97 acres for expansion of the existing airport in Coimbatore. The District Collector, Coimbatore had fixed a tentative land value based on the market value including building, trees and 30% solatium, establishment charges etc., at Rs.354,74,48,387/-. It was recommended, in order to facilitate speedy processing of the acquisition, apart from the 8 posts that were sanctioned with regard to Airport Expansion work in the year 2002, to sanction additional 24 posts.



4. The first respondent in G.O.Ms.No.259 dated 04.10.2010 accepted the proposal to acquire the land admeasuring 612.97 acres of land under the Tamil Nadu (Acquisition of Lands for Industrial Purposes) Act, 1997 (hereinafter called as "Act").

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5. The petitioners received notices dated 11.05.2012 from the second respondent under Section 3(2) of the Act. The petitioners have submitted their objections to the second respondent dated 24.05.2012. Thereafter, no communication was served on the petitioners.

6. The petitioners came to understand that by G.O.Ms.No.251 dated 31.12.2013 under Section 3(1) of the Act was published in the Tamil Nadu Government Gazette, the land owned by the company and the land owned by the petitioner in W.P.No.11109 of 2017 which were in Block No.17 have to be acquired.

7. The petitioners received notice from the third respondent dated 18.02.2016 under Section 7(2) of the Act to determine the compensation. A public meeting of all the land losers was to be held on 25.02.2016 in the Office of the second respondent herein. The petitioners have attended the meeting and they were made to sign and they were not given personal hearing. They decided to fix a rate of Rs.100/- per square feet.

8. However, the petitioners objected to the same and therefore, the petitioners submitted their representation dated 27.02.2017 to the second respondent stating that they were not given opportunity personal hearing as required under Section 7 (5) of the Act during the enquiry conducted on 25.02.2016. Therefore, the petitioners called upon the second respondent to implement the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 (hereinafter called as "New Act"). Therefore, the petitioners land losers sought for information under the Right to Information Act and received a reply dated 03.02.2017.

9. The learned counsel for the petitioner would submit that so far the second respondent did not pass any award to pay the compensation. The petitioner is still in possession and enjoyment of the subject land. Neither the respondent nor the Airports Authority have taken physical possession of the land till today. Further, she submitted that under the Act if the Government wishes to acquire the land, they have to provide individual notices to the land losers under Section 3(2) of the Act following which, the notification about the details of the land to be acquired under Section 3(1) and the compensation has to be determined under Section 7 of the Act.



10. Section 7(2) provides that if a settlement is reached between the parties, then the agreed amount will be the compensation amount. However, if no such agreement can be reached, the Collector will determine the compensation, after giving opportunity under Section 7(5) of the Act. As per Section 7(6), the compensation is to be guided by Sections 23, 24 and any other relevant provisions of the Land Acquisition Act, 1894. Section 7(11) provides that the second respondent should complete the determination of compensation within a period of 6 months. Once the compensation has been finalized, an award as per Form G of the Tamil Nadu Acquisition of Land for Industrial Purposes Rules, 2000 has to be signed by the Collector.

11. The New Act was passed and came into force from 01.01.2014. Therefore, the Land Acquisition Act, 1894 was repealed with effect from 01.01.2014 and the compensation to be determined under Section 7(6) of the Act should be as per the provisions of the New Act.

12. The third respondent filed counter and stated that both the writ petitions have been filed with prayer to determine the compensation payable by the petitioner according to the provisions of the New Act. After publication of the notification under Section 3(1), the petitioners become eligible for compensation to the lands to be acquired. Therefore, the petitioners were asked to attend a negotiation meeting for fixing the rate of compensation under Section 7(2) of the Act. The District Level Valuation Committee has fixed the land value at Rs.43,560/- per cent for the land to be acquired from the land owners. The land owners refused to accept the land value fixed by the District Level Valuation Committee. Therefore, the Principal Secretary and Commissioner of Land Administration was addressed to accord necessary sanction to proceed further under Section 7(3) of the Act.

13. By the New Act came into force from 01.01.2014, the said Act was revived from 26.09.2013 except the determination of compensation. Therefore, the petitioners are entitled to have compensation under the New Act.

14. In this regard, the learned counsel for the petitioner relied upon the batch of connected writ petitions disposed by the Hon'ble Division Bench of this Court dated 18.08.2020 in W.P.Nos.2116 of 2017 etc., dated 12.09.2019 in which the Hon'ble Division Bench of this Court held that "The Special District Revenue Officer (Land Acquisition), Extension of Runway at Coimbatore International Airport, convened the meeting with the concerned officials of the AAI, wherein, the land owners have also participated and in respect of Block No.7 / house



sites, compensation was sought to be fixed at the rate of Rs.1500/- per sq.ft. and for agricultural lands, compensation was sought to be fixed at the rate of Rs.900/- per sq.ft., so also in respect of the lands in Block Nos.1, 2. In respect of Block No.15 of Kalapatti Village, it was fixed at the rate of Rs.900/- per sq.ft. for the lands which are classified as agricultural lands as per the revenue records."

15. On the strength of the same, in a batch of other connected writ petitions, the Hon'ble Division Bench of this Court held that "A first round of negotiation in the year 2015 failed between the petitioners and the State Government, but after the filing of the writ petitions, the negotiations were again attempted and ultimately, vide resolution dated 06.3.2018, negotiations succeeded between a majority of the land owners and the State Government barring a few exceptions. These negotiations which were finalized based on the consent letters tendered by most of the tenure holders, including the majority of the petitioners. The fact of this negotiation having been undertaken is undisputed and the rates that were arrived at for payment was Rs.1500/- per square feet for urban area and Rs.900/- per square feet for rural area. After the negotiations were held and documented, the same were forwarded mentioning therein the numbers of the writ petitions for being dealt with by the District Level Committee. The same is dated 10.8.2018 and has been placed on record. Since the pecuniary involvement according to the Government Orders referred to therein was such that it had to be finalized by the State Level Committee, the same was considered by the State Level Committee and approved, whereafter recommendations were made to the State Government vide letter dated 16.10.2018 for sanctioning the same and entering into the formal agreements as per the consent letters given by the land owners.

16. Therefore, the Hon'ble Division Bench of this Court fixed compensation at the rate of Rs.1500/- per sq.ft. for urban area and Rs.900/- per sq.ft. for rural area as per their consent letter tendered by the land owners. In the case on hand, the petitioners never submitted any consent letter, with regard to the subject land situated at Block No.17, Irugur Village, Suler Taluk, Coimbatore District. Compensation for the similarly placed persons land were determined at the rate of Rs.1500/- per sq.ft. and they also received the same.

17. Considering the above, the second respondent is directed to determine the value of the compensation for the land subjected for acquisition, in view of the above order of the Hon'ble Division Bench of this Court with solatium and interest within a period of eight weeks from the date of receipt of a copy of this order and disburse the compensation amount forthwith within a period of four weeks thereafter.



18. The learned counsel for the petitioner submitted that the remaining land to an extent of 1.74 acres, now became isolated without any ingress. Considering the said submission, the petitioners are directed to submit a representation before the authorities concerned and the same may be considered on merits in accordance with law.

19. With the above directions, these writ petitions are disposed of. No order as to costs. Consequently, the connected W.M.P.Nos.12039 to 12042 of 2017 are closed.

Sd/-
Assistant Registrar(CS II)

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Sub Assistant Registrar

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To

1. The Principal Secretary to Government,
Transport Department, Secretariat,
Chennai - 600 009.
2. The District Collector,
Collectorate Building,
Coimbatore - 641 018.
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NSK 25/11/2021