



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2021

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CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.24297 of 2017

G.S.Shah

... Petitioner

Vs.

1. The Special Tahsildar,
Land Acquisition Unit,
SIPCOT UNIT (4),
Irungattukottai,
Sriperumbudur Taluk,
Kanchipuram District.

2. The Chairman & Managing Director,
State Industries Promotion Corporation of
Tamil Nadu Ltd (SIPCOT)
No.19-A, Rukmani Lakshmipathi Road,
Egmore, Chennai - 600 008.

3. M/s.Flextronics Technologies (India) Private Ltd.,
Rep.by its Managing Director,
Plot No.3, Phase II, Sipcot Industrial Park,
Sandavellur Village, Sriperumbudur,
Kanchipuram District - 602 105.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of declaration, to declare that the land acquisition proceedings initiated under the Land Acquisition Act, 1894, in respect of the land more fully described in the schedule to the petition, belonging to the petitioner, situate at Santhavelur Villatage, Block XI of Sriperumbudur Taluk, Kanchipuram District, as lapsed in view of the Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013).



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For Petitioner : Mr.R.Prabhakaran

For Respondents : Mr.Richardson Wilson

Government Advocate (for R-1)

: Mrs.Sudarshana Sunder (for R-2)

: Mr.Srinath Sridevan (for R-3)

O R D E R

This petition has been filed to declare that the land acquisition proceedings initiated under the Land Acquisition Act, 1894, in respect of the land, more fully described in the schedule to the petition, belonging to the petitioner, situate at Santhavelur Village, Block XI of Sriperumbudur Taluk, Kanchipuram District, as lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the New Act' for short).

2. The writ petition has been filed on the following grounds that acquired land has not been allotted to the beneficiary and not utilized till the date and the land is kept idle and as such, the petitioner is entitled to seek reversion by virtue of Section 24(2) the New Act. The purpose of very acquisition has not been effected and as such, the entire acquisition proceedings deemed to have been lapsed. The first and second respondents/SIPCOT did not pay any compensation till date as per the enhancement order passed in the LAOP for part of the land and for another part of the land, no amount had been paid till date. No physical possession of the land has also been taken.

3. Heard Mr.R.Prabhakaran, learned counsel for the petitioner, Mr.Richardson Wilson, learned Government Advocate appearing for the first respondent, Mrs.Sudarshana Sunder, learned counsel appearing for the second respondent and Mr.Srinath Sridevan, learned counsel appearing for the third respondent/company.

4. The subject property was acquired for setting up an industrial unit. After acquisition, the award has also been passed and the same was referred in LAOP.Nos.305 and 306 of 2007 along with other land owners before the Sub Court, Kanchipuram



for enhancement of compensation. The Court below, by its judgment and decree dated 21.05.2008, in the said LAOP is enhanced the compensation amount from Rs.350/- per cent to Rs.5,300/- per cent with 30% solatium, along with 9% interest. Accordingly, the compensation amount has also been deposited in the Court. Insofar as the possession of the subject property is concerned, on 15.09.1999 itself, the possession of the property was taken over and handed over to the third respondent. It is also evident from the records produced by the respondents that after passing award, the possession of the property had also been taken over and handed over to the third respondent/company, which is evident from the possession certificate dated 15.09.1999. In turn, by the lease dated 09.03.2007, the second respondent/SIPCOT had also leased out the property in favour of the third respondent. Therefore, the petitioner failed to prove the grounds as contemplated under Section 24(2) of the New Act in this writ petition.

5. That apart, the grounds raised by the petitioner in this Writ Petition have already been settled by the Hon'ble Supreme Court of India in the judgment reported in (2020) 8 SCC 129 in the case of Indore Development Authority Vs. Manoharlal and ors etc., which held as follows :-

"366. In view of the aforesaid discussion, we answer the questions as under:

1. Under the provisions of Section 24(1)(a) in case the award is not made as on 1.1.2014 the date of commencement of Act of 2013, there is no lapse of proceedings. Compensation has to be determined under the provisions of Act of 2013.

2. In case the award has been passed within the window period of five years excluding the period covered by an interim order of the court, then proceedings shall continue as provided under Section 24(1)(b) of the Act of 2013 under the Act of 1894 as if it has not been repealed.

3. The word or used in Section 24(2) between possession and compensation has to be read as nor or as and. The deemed lapse of land acquisition proceedings under Section 24(2) of the Act of 2013 takes place where due to



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6. The proviso to Section 24(2) of the Act of 2013 is to be treated as part of Section 24(2) not part of Section 24(1)(b).

7. The mode of taking possession under the Act of 1894 and as contemplated under Section 24(2) is by drawing of inquest report/memorandum. Once award has been passed on taking possession under Section 16 of the Act of 1894, the land vests in State there is no divesting provided under Section 24(2) of the Act of 2013, as once possession has been taken there is no lapse under Section 24(2).

8. The provisions of Section 24(2) providing for a deemed lapse of proceedings are applicable in case authorities have failed due to their inaction to take possession and pay compensation for five years or more before the Act of 2013 came into force, in a proceeding for land acquisition pending with concerned authority as on 1.1.2014. The period of subsistence of interim orders passed by court has to be excluded in the computation of five years.

9. Section 24(2) of the Act of 2013 does not give rise to new cause of action to question the legality of concluded proceedings of land acquisition. Section 24 applies to a proceeding pending on the date of enforcement of the Act of 2013, i.e., 1.1.2014. It does not revive stale and time-barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of mode of taking possession to reopen proceedings or mode of deposit of compensation in the treasury instead of court to invalidate acquisition."

6. The Hon'ble Supreme Court of India settled all proposition of law in the above judgment including the grounds raised by the petitioner. That apart, the acquisition proceedings have been completed and the subject land was also taken over by the Government on 15.09.1999 itself. The petitioner also received part of the compensation from the Land Acquisition Officer. Therefore, the petitioner failed to satisfy the twin requirements



under Section 24 (2) of the New Act, i.e., the physical possession of the land was not taken and the compensation has not been paid/tendered/deposited in accordance with law. In view of the above dictum laid down by the Hon'ble Supreme Court of India, the issues raised by the petitioner was settled and therefore, the acquisition proceedings had not lapsed by operation of law under Section 24 (2) of the new Act i.e., Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. In view of the settled position of law, the writ petition is devoid of merits and liable to be dismissed.

7. In the result, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Special Tahsildar,
Land Acquisition Unit,
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Sriperumbudur Taluk, Kanchipuram District.
2. The Chairman & Managing Director,
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Plot No.3, Phase II, Sipcot Industrial Park,
Sandavellur Village, Sriperumbudur,
Kanchipuram District - 602 105.

+1cc to M/s.Sudharshana Sunder, Advocate, S.R.No.43854

+1cc to the Government Pleader, S.R.No.43931

W.P.No.24297 of 2017

KSM(CO)

SB(27/09/2021)