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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 11.08.2021
Pronounced on : 26.08.2021

CORAM

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

WP.No.16843 of 2017
and
WMP.Nos.35421 & 18294 of 2017
and
WMP.No.2652 of 2018

M/s.Lakshmi Sastry Construction Company,
Rep.by V.K.Subbramanian,
New No.16, Old No.12-A,
East Abhiramapuram First Street,
Mylapore, Chennai - 600 004

..Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary,
Industries Department,
Fort St.George,
Chennai - 600 009

2.M/s.SIPCOT,
Rep. by its Managing Director,
No.19-A, Rukmani Lakshmipathi Salai,
Egmore, Chennai - 600 008

3.The District Collector,
Kancheepuram District,
Kancheepuram

4.The Special Tahsildhar(LA),
SIPCOT-Oragadam Expansion Scheme,
Sriperumbudur Taluk,
Kancheepuram District

..Respondents

PRAYER:

The Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus, calling for the records of the fourth respondent 09.08.2016 vide Ref.No.05/2016/Unit-1/B-5 and quash the same and insofar land comprised in old survey Nos.49/1A4 and 49/1B and new survey Nos.190/5, 190/6 bearing DTCP plot Nos.32 to 36 in Navin Nagar Layout of Oragadam Village, measuring an extent of 10800 sq.ft. thereby enabling the respondent to confer the



benefit of provisions of Act 30/2013 as may be applicable to the petitioner, resulting in release of lands referred to herein to the petitioner.

(prayer amended vide order dated 19.04.2021 made in WMP.No.9014/2021 in WP.No.16843 of 2017)

For Petitioner : Mr.V.Ramesh
for Mr.M.Aravind Subramaniam

For Respondents
For R1,3&4 : Mr.Richardson Wilson,
Government Advocate

For R2 : M/s.Sudarshana Sundar

ORDER

This writ petition is filed to issue a writ of certiorarified mandamus, calling for the records of the fourth respondent, 09.08.2016 vide Ref.No.05/2016/Unit-1/B-5 and quash the same insofar land comprised in old survey Nos.49/1A4 and 49/1B, new survey Nos.190/5, 190/6 bearing DTCP plot Nos.32 to 36 in Navin Nagar Layout of Oragadam Village, measuring an extent of 10800 sq.ft. thereby enabling the respondent concerned to confer the benefit of provisions of Act 30/2013 as may be applicable to the petitioner, resulting in release of lands referred to herein to the petitioner.

2. The case of the petitioner is that he had purchased the land in survey No.49/1A4 and 49/1B (part) admeasuring 10800 sq.ft. in order to start an industrial catering services. This land was marked as plot No.32 to 36 as per the sanctioned layout DTCP No.87-222/LP 166 in No.134, Oragadam Village, Sriperumbudur Taluk, Kancheepuram District. While being so, the first respondent issued notice under Section 3(1) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (hereinafter called as 'the Act') for the purpose of extension of SIPCOT industrial area. The petitioner along with other land owners had filed writ petitions before this Court, in which the petitioner's writ petition in WP.No.32290 of 2007 and all the writ petitions were dismissed by this Court by order dated 03.06.2008. Though other land owners filed writ appeals before this Court in WA.Nos.781, 782, 799, 800, 855, 856 and 859 to 863 of 2008, the petitioner did not file any appeal. The appeals were allowed by this Court by order dated 29.04.2011 and aggrieved by the same, the respondents herein filed SLP and the same was also dismissed by the Hon'ble Supreme Court of India by order dated 14.11.2011. In view of the above order passed by the Hon'ble Division Bench of this Court, the petitioner made



representation to the first respondent for allotment of alternative land. It was rejected and directed the petitioner to approach the second respondent herein by order dated 04.09.2013. It was rejected by the order dated 09.08.2016, which is impugned in this writ petition.

2.1 Originally, the petitioner filed writ petition for declaration declaring that the land acquisition proceedings under the Act as null and void and lapsed in view of Section 24 (2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013). While being so, the petitioner filed petition for amendment and amended the prayer as stated supra and challenged the order passed by the fourth respondent dated 09.08.2016.

3. The learned counsel for the petitioner would submit that the Form-E notice was served on the petitioner to handover the possession within 30 days from the date of service of the order i.e. 23.08.2007 which falls on 22.09.2007. The possession of the property has already been handed over to the SIPCOT on 07.09.2007 itself. It is well before the statutory period of 30 days. Therefore, the entire acquisition proceedings is vitiated and liable to be set aside. Form-E notice was sent in the name of the previous land owner i.e. Arjunan Arumugam. No notice was issued to the petitioner at any point of time. He further submitted that while dismissing the writ petition filed by the petitioner and other land owners observed that in respect of cases where specific plea is raised about the occupation of specified portion for religious purposes or small scale industrial purposes, it is always open to the said petitioners to make proper representation to the Government either for the purpose of withdrawal of the land from acquisition proceedings or for any other relief. In that case it is always open to the Government to consider the same in accordance with law and on merits. It is also made clear that in cases where the petitioners are already carrying on some industrial activities, which may be referred to as industrial purpose under the Tamilnadu Act 10 of 1999, it is always open to the said petitioners to make proper representation to SIPCOT after acquisition proceedings are over, for the purpose of allotment. Accordingly, the petitioner submitted representation before the first respondent requesting to exclude his land from acquisition by the representation dated 12.06.2008. However, it was rejected by the order dated 04.09.2013 and directed the petitioner to approach SIPCOT for allotment of land for the purpose of industrial activity. Without considering the above grounds, the fourth respondent mechanically rejected the representation by the impugned order dated 09.08.2016. In support of his contention, he relied upon the following judgments:



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- (i) Bhavnagar University Vs. Palitana Sugar Mill (P) Ltd and others reported in (2003) 2 SCC 111
- (ii) Competent Authority Vs. Barangore Jute Factory and others reported in (2005) 13 SCC 477
- (iii) State of Uttar Pradesh Vs. Hari Ram reported in (2013) 4 SCC 280
- (iv) The Principal Commissioner, Commissioner of Land Reforms, Chennai and others Vs. M. Venkataraman and another rendered in WA.No.239 of 2014
- (v) V. Geetha Lakshmi Vs. The State of Tamilnadu rep. by its Secretary and others rendered in WP.No.24528 of 2001 by this Court

4. Per contra, the learned Government Advocate appearing for the respondents 1, 3 & 4 filed counter and submitted that all the grounds raised by the petitioner herein were already raised in WP.No.32290 of 2007 and this Court passed detailed order and dismissed the writ petition. Aggrieved by the same, the petitioner did not prefer any appeal. Therefore, the order passed by this Court in WP.No.32290 of 2007 became final and upheld the acquisition proceedings. Therefore, the present writ petition is nothing but re-litigation and it amounts to clear abuse of process of court. That apart, the provisions under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 does not apply to the present case since the land was acquired under the Tamilnadu Acquisition of Land for Industrial Purposes Act, 1997. The new act came into force instead of the old Act i.e. Land Acquisition Act, 1894. The provisions under Section 24 (1) and (2) are very clear that it applies only for the old Act; and for Tamilnadu Acquisition of Land for Industrial Purposes Act, 1997 it will not apply. Therefore, the writ petition itself is misconception of facts and it is liable to be dismissed. Even assuming that the new Act will apply as per the judgment of the Constitution Bench of the Hon'ble Supreme Court of India in the case of Indore Development Authority Vs. Manoharlal and others reported in (2020) 8 SCC 129, wherein it is held that the provisions made under Section 24 of the new Act have provided a window of 5 years to complete the acquisition proceedings, and if there is a delay of 5 years or more, there is a lapse and not otherwise. The provision cannot be stretched any further, otherwise, the entire infrastructure, which has come up, would have to go and only the litigants would reap the undeserving fruits of frivolous litigation, having lost in several rounds of litigation earlier, which can never be the intendment of the law. Further held that an earlier round of litigation operates as res judicata where the challenge to the legality of the proceedings had been negated and the proceedings of taking possession were upheld.



Section 24 does not intend to reopen proceedings which have been concluded.

4.1 He further submitted that the writ petition originally challenged the very same acquisition proceedings in view of Section 24 of the new Act i.e. Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Though the petitioner amended the relief subsequently, it is also nothing but challenging the acquisition proceedings to confer the benefit of the provisions under the new Act. Therefore, he prayed for dismissal of the writ petition.

5. The learned counsel for the second respondent submitted that the land in question was already acquired and handed over to the second respondent. The entire site was leased out to M/s.Renault and Nissan Company who has constructed a compound wall around the boundary of the site allotted to them. It is in possession and enjoyment of them ever since the lease deed was executed in favour of M/s.Renault and Nissan Company. She further submitted that in fact, while pending the writ petition, this Court appointed advocate commissioner to visit the subject property and filed report. Accordingly, the Advocate Commissioner visited the property and filed his report and the second respondent also filed objection to the report.

6. Heard, Mr.V.Ramesh, the learned counsel for the petitioner, Mr.Richardson Wilson, Government Advocate appearing for the respondents 1,3 & 4, and M/s.Sudarshana Sundar, the learned counsel for the second respondent.

7. The land in question was purchased by the petitioner by the registered sale deed dated 24.02.1988 comprised in survey No.49/1A4 and 49/1B (part) admeasuring 10800 sq.ft. situated at No.134 Oragadam Village, Sriperumbudur Taluk, Kancheepuram District. The first respondent issued notification under Section 3 (1) of Tamilnadu Acquisition of Land for Industrial Purposes Act, 1997 dated 04.07.2007 for the purpose of extension of SIPCOT industrial area. The petitioner and other land owners had challenged the acquisition proceedings by way of batch of writ petitions. The grounds raised by the petitioners herein were already raised in the above writ petitions. All the grounds had been elaborately discussed by this Court and rejected the same. While disposing the writ petitions, this Court observed as follows:

94. In view of the above said facts and circumstances and totality of the situation that there has been substantive compliance of service of notice, conduct of hearing and also taking into consideration the larger industrial



processes were already completed in respect of the subject property and also finalised land value under Sections 7(2) / 7 (3) of the Act. The petitioner failed to come forward to get the payment fixed under Section 7 (2) of the Act. However, the acquisition process was finalised and award was issued on 27.04.2011. The award amount is still with the Government account so as to make payment at any time if claims received later. Therefore, this Court finds no infirmity or illegality in the order passed by the fourth respondent.

9. As rightly pointed out by the learned Government Advocate, Mr. Richardson Wilson, the provisions under Section 24 of the new Act does not apply to the proceedings initiated under the Tamilnadu Acquisition of Land for Industrial Purposes Act, 1997. It is relevant to extract provisions under Section 24 (1) and (2) of the new Act i.e. Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 hereunder:

(1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894,--

(a) where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or

(b) where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act

10. Accordingly, the new Act would apply only in respect of old Act. That apart, the Government of Tamilnadu have not reduced the benefits provided under the Central Act 30 of 2013



(new Act) to the lands acquired under the 3 State Acts dealing with acquisition of lands. The Government of Tamilnadu have allowed the same level of benefits that has been provided under the Central Act 30 of 2013 by way of GO.Ms.No.45, Industrial (SIPCOT-LA) Department dated 14.05.2014 and GO.Ms.No.251, Industries (SIPCOT-LA) Department dated 31.12.2014. It is also seen that the State Government in view of speedy industrial growth in the State felt that the lands for industrial purposes have to be acquired speedily and enacted the Tamilnadu Acquisition of Land for Industrial Purposes Act, 1997 with a conceptualized vision that more industries would be started in Tamilnadu and the acquisition of land for setting up such industries would be expedited to achieve the laudable object of big industrialisation in the State of Tamilnadu. Therefore, the petitioner cannot repeatedly challenge the acquisition proceedings by way of writ petitions. In this regard it is relevant to rely upon the judgment in the case of Indore Development Authority Vs. Manoharlal and others reported in (2020) 8 SCC 129, wherein it is held as follows:

356. The entire gamut of submissions of the landowners is based on the misinterpretation of the provisions contained in Section 24. It does 248 (1970) 1 SCC 613 249 (2018) 16 SCC 228 250 (2012) 12 SCC 443 251 (1994) 1 SCC 4 not intend to divest the State of possession (of the land), title to which has been vested in the State. It only intends to give higher compensation in case the obligation of depositing of compensation has not been fulfilled with regard to the majority of holdings. A fresh cause of action in Section 24 has been given if for five years or more possession has not been taken nor compensation has been paid. In case possession has been taken and compensation has not been deposited with respect to the majority of landholdings, higher compensation to all incumbents follows, as mentioned above. Section 24 does not confer a new cause of action to challenge the acquisition proceedings or the methodology adopted for the deposit of compensation in the treasury instead of reference court, in that case, interest or higher compensation, as the case may be, can follow. In our considered opinion, Section 24 is applicable to pending proceedings, not to the concluded proceedings and the legality of the concluded proceedings, cannot be questioned. Such a challenge does not lie within the ambit of the deemed lapse under Section 24. The lapse under section 24(2) is due to inaction or lethargy of authorities in taking requisite steps as provided therein.





litigation operates as res judicata where the challenge to the legality of the proceedings had been negatived and the proceedings of taking possession were upheld. Section 24 does not intend to reopen proceedings which have been concluded. Therefore, the judgments relied upon by the learned counsel for the petitioner are not helpful to the case on hand. As such, the writ petition is devoid of merits and liable to be dismissed.

12. Accordingly, this writ petition is dismissed. Consequently connected miscellaneous petitions are closed. No order as to costs.

Sd/-

Assistant Registrar (CS-VI)

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Sub Assistant Registrar

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To

- 1.The Secretary,
State of Tamil Nadu,
Industries Department,
Fort St.George, Chennai - 600 009
- 2.Managing Director,
M/s.SIPCOT,
No.19-A, Rukmani Lakshmipathi Salai,
Egmore, Chennai - 600 008
- 3.The District Collector,
Kancheepuram District,
Kancheepuram
- 4.The Special Tahsildhar(LA),
SIPCOT-Oragadam Expansion Scheme,
Sriperumbudur Taluk,
Kancheepuram District

+1cc to Mr.Sudarshana Sundar, Advocate, S.R.No.43517
+1cc to Mr.Arvind Subramanian, Advocate, S.R.No. 43378
+1cc to the Government Pleader, S.R.No. 43408

WP.No.16843 of 2017

AK(CO)
GN(17/09/2021)