



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.12.2021

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THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD)No.19369 of 2021

and

W.M.P. (MD)No.17395 of 2021

Triway Container Freight Station Private Limited,
represented by its Manager,
A.Manimaran,
S/o.A.Anandan,
Corporate Registered Office,
#14, Jaffer Street,
Presently shifted to
No.325, Thambu Chetty Street,
Chennai -600 001.

... Petitioner

vs.

1.State of Tamil Nadu
represented by its Secretary,
Industry Department,
Fort St.George, Chennai - 600 009.

2.The District Collector / The District Revenue
Officer-cum-Land Acquisition Officer,
Office of the District Collector,
Tuticorin, Tuticorin District.

3.State Industries Promotion Corporation
of Tamil Nadu Limited (SIPCOT),
represented by its Managing Director,
19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai - 600 008.

... Respondents

(Third respondent is impleaded vide order of this Court, dated 06.12.2021 in W.M.P.(MD)No.17935 of 2021 in WP(MD)No.19369 of 2021 by CVKJ)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the show cause notice sent by the 2nd Respondent dated 13.09.2021 Proceedings in Na.Ka.No.E5/14995/2021, quash the same and thereby to direct the respondents to dispose of the objection given by the petitioner, dated 24.09.2021 served on the respondent, dated 01.10.2021 according to Tamil Nadu Acquisition of Land for Industrial Purpose Act, 1997.



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For Petitioner :Mr.S.Meenakshisundaram
Senior Counsel
for Mr.A.R.Nixon
For Respondents :Mr.Veerakathiravan
1 & 2 Additional Advocate General
assisted by Mr.D.Ghandiraj
Special Government Pleader
R3 :Mr.N.Adithya Vijayalayan

O R D E R

This Writ Petition has been filed in the nature of Certiorarified Mandamus seeking interference with the notice of the second respondent/District Collector/District Revenue Officer-Land Acquisition Officer, dated 13.09.2021 and to direct the respondents to dispose of the objection given by the petitioner, dated 24.09.2021. The impugned notice had been served on the petitioner on 01.10.2021.

2.Heard Mr.S.Meenakshi Sundaram, learned Senior Counsel for the petitioner and Mr.Veerakathiravan, learned Additional Advocate General appearing for the respondents.

3.The petitioner/Triway Container Freight Station Private Limited, who is represented by its Manager in the Writ Petitioner, claim that they are engaged in industrial activities from 1994. They had purchased lands at Meelavittan Village within the limit of Tuticorin customs to construct bonded warehouse/container freight station. They further stated that the facility had locational advantage, since it was very close to the Tuticorin Port. The petitioner had purchased the lands for industrial activities.

4.They received the notice impugned, dated 13.09.2021, from the second respondent claiming that the lands mentioned in the said notice are to be acquired. The petitioner had given a reply on 24.09.2021. It is further stated that however, an attempt had been made to enter into the lands of the petitioner, necessitating the filing of the present Writ Petition.

5.Counter affidavit had been filed by the second respondent/District Collector, wherein, it had been very clearly stated that the notice now questioned is a notice under Section 3(2) A of Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997, and is only a preliminary notice issued and for which, the petitioner had also given a reply on 24.09.2021. It had been further stated that only thereafter, the next procedure, as prescribed under Section 3(2)B of the Act, will have to be initiated and therefore, it is stated that the said procedure has not yet been initiated and hence, the present Writ Petition is preliminary in nature.



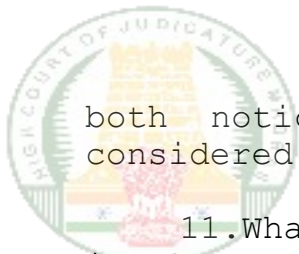
6. In the midst of this, W.M.P.(MD)No.17395 of 2021, has also been filed by State Industries Promotion Corporation of Tamil Nadu Limited, for whose purpose, the lands of the petitioner were sought to be acquired, seeking to implead themselves as necessary party to the Writ Petition. In the affidavit filed in support of the said petition, it had been stated that they are interested in the lands being acquired for formation of approach road to SIPCOT Industrial Complex Phase-II, Thoothukudi. The lands of the petitioner measuring 5.44 acres comprised in S.Nos.94/2A, 2B, 2C, 2D1, 3A3, 95/1 and 37/2B of Meelavittan Village, were among the lands under acquisition. Form-A notice under Section 3(2) of the Act was issued on 13.09.2021 and the petitioner had sent their objection on 29.09.2021.

7. It is the claim of the Writ Petitioner in the reply that they had purchased the lands for the purpose of construction of container freight station and that the lands are required for the Writ Petitioner. It is claimed by the petitioner in W.M.P.(MD) No.17395 of 2021 that the said objections had been examined by them and they had requested the District Collector to reject the objections and proceed with the acquisition of the lands.

8. Since material facts have been stated, it is only imperative that the petitioner in W.M.P.(MD)No.17395 of 2021 is impleaded as the third respondent and accordingly, W.M.P.(MD)No.17395 of 2021 is allowed to that limited extent, recording the presence of State Industrial Promotion Corporation of Tamil Nadu as the third respondent in the Writ Petition. Registry may carry out necessary amendments in the cause title before issuing the order copy.

9. Mr. Veerakathiravan, learned Additional Advocate General appearing for the respondents, however, drew the attention of this Court to the notice actually issued under Section 3(2)A of the Tamil Nadu Land Acquisition for Industrial Purpose Act, 1997, a copy of which had also been filed by the second respondent, and stated that the notice, which is impugned, dated 13.09.2021, in Na.Ka.No.E5/14995/2021, relates to 0.05.62 acres of land of the petitioner herein in S.No.37/2B. With respect to this particular notice, the petitioner had given a reply on 24.09.2021. Yet another notice had also been simultaneously issued bearing the same proceedings, namely, Na.Ka.No.E5/14995/2021, and also dated 13.09.2021, in which, the remaining lands, as stated in the notice, were to be acquired and preliminary notice under Section 3(2)A of the Act had also been issued.

10. The procedure now after issuing these particular notices, is to consider the reply sent by the petitioner herein. The petitioner herein had sent a reply on 24.09.2021. Thus, there is an obligation placed on the second respondent to consider the said reply. I am



both notices in manner known to law and thereafter, take a considered decision.

11.What perturbed the learned Senior Counsel for the petitioner is the statement made in the affidavit of the third respondent, who has now been impleaded, who stated that the objection raised by the petitioner has been rejected by the said third respondent and the second respondent/District Collector has been advised to reject the application of the petitioner and to proceed further with the acquisition procedure.

12.The said statement should not have and I am confident will not have any bearing on the second respondent/District Collector, who, I am confident, would independently apply his/her mind to the reply given by the petitioner and proceed in manner known to law with respect to the enquiry by following principles of natural justice and take a considered decision. Only thereafter, on the basis of the objection of the petitioner, the matter will be referred to the third respondent and then further procedure has to be proceed by issuing a public notice under Section 3(2)D of the Act.

13.Placing an obligation on the second respondent to act in manner known to law, no further orders are required in the Writ Petition. Hence, this Writ Petition is closed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

cmr

To

1.The Secretary,
State of Tamil Nadu
Industry Department,
Fort St.George, Chennai - 600 009.

2.The District Collector / The District Revenue
Officer-cum-Land Acquisition Officer,
Office of the District Collector,
Tuticorin, Tuticorin District.

+1 CC to M/s.N.ADITHYA VIJAYALAYAN, Advocate (SR-37642[F]
dated 07/12/2021)

<https://hcservices.ecourts.gov.in/hcservices/>



+1 CC to M/s.A.R.NIXON, Advocate (SR-37807[F] dated 08/12/2021)

+1 CC to M/s.SPL GP (SR-37772[F] dated 08/12/2021)

Order made in
W.P. (MD) No.19369 of 2021
06.12.2021

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RJ (CO)

GC (22.12.2021) 5P 6C