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W.A.No.1063 of 2012 etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON :28.04.2022

ORDERS PRONOUNCED ON : 17.10.2022

CORAM:

**THE HON'BLE ACTING CHIEF JUSTICE
and
THE HON'BLE MR.JUSTICE S.SOUNTHAR**

W.A.Nos.1063 and 1223 of 2012 and W.P.Nos.4029, 7093, 7550, 8143, 8144, 8145, 8146, 8147, 8613, 11163, 8992, 11115, 12152, 12873, 15424, 15786, 17363, 19162, 20346, 20525, 21065, 21070, 21071, 21072, 21073, 21074, 22304, 22863, 22864, 22865, 22866, 24062, 24063, 24106, 25821, 25822, 27200, 29433, 31442, 31950, 31952, 33240, 33241, 33242, 35032, 35033, 35034, 35035, 35257, 35259, 35260, 35261, 35263, 35264, 35262, 35258 of 2012 and W.P.Nos.3406, 3543, 3544, 4662, 5222, 5564, 5922, 6592, 7910, 8765, 8766, 8767, 8768, 12300, 12301, 12302, 12303, 13081, 13532, 13533, 13534, 13847, 13848, 13849, 16035, 16036, 16037, 16044, 16045, 16077, 16078 of 2013 and W.P.No.18184 of 2014.

W.A.No.1063 of 2012

Sri Venkateswara Educational And Charitable Trust,
having office at New No.36, Venkatachala
Naicken Street, Pudupet,
Chennai- 600 002.

Represented by its Managing Trustee,
Thiru. Dr.Balaji M.D.S.,
Managing Trustee

...Appellant

Amended vide Court order dated 22.04.2022 made in C.M.P.No.6750 of 2022
in W.A.No.1063 of 2012 (TRJ & SSJ)



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VS.

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1. The Secretary to Government of Tamil Nadu,
Industries SIPCOT (LA) Department,
Fort St. George,
Chennai-9.
2. Special Commissioner and Commissioner for
Land Administration,
Chepauk, Chennai-5.
3. The Chairman and Managing Director,
State Industries Promotion Corporation of
Tamil Nadu Ltd.,
19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai-600 008.
4. The District Collector,
Tiruvannamalai District,
Tiruvannamalai.
5. Special District Revenue Officer,
SIPCOT (Land Acquisition),
Kasikara Street,
Cheyyar-604 407.
6. Special Tahsildar
(SIPCOT-LA)
At No.9, Pathala Vinayagar Koil Street,
Cheyyar-604 407.

...Respondents

Prayer: This Writ Appeal has been filed under Clause 15 of the Letters patent to set aside the order of the learned Judge of this Hon'ble Court, Madras, made in W.P.No.9557 of 2011 dated 24.04.2012.



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W.A.No.1223 of 2012

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1. The Secretary to Government of Tamil Nadu
Industrial SIPCOT (LA), Department,
Fort St. George, Chennai-9.
2. The Special Commissioner &
Commissioner for Land Administration,
Chepauk, Chennai-5.
3. The Chairman & Managing Director,
State Industries, Promotion Corporation of
Tamil Nadu Ltd.,
No.19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai-600 008.
4. The District Collector,
Tiruvannamalai,
Tiruvannamalai District.
5. The Special District Revenue Officer,
SIPCOT (Land Acquisition),
Kasikara Street,
Cheyyar-604 407.
6. The Special Tahsildar,
(SIPCOT- LA)
At No.9, Pathala Vinayagar Koil Street,
Cheyyar - 604 407.

...Appellants

Vs.

Sri Venkateswara Educational
And Charitable Trust,
Having office at New No.36,
Venkatachala Naicken Street,



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Pudupet, Chennai-600 002.
represented by its Managing
Trustee, Er.D.Sivalingam,
Chief Engineer P.W.D. (Retd).

...Respondent

Prayer: This writ appeal has been filed under Clause 15 of the Letters Patent to allow the writ appeal by setting aside the order dated 01.02.2012 made in W.P.No.21377 of 2011.

W.P.No.4029 of 2012

M/s.V.G.Panneerdas and Company
Rep by its partner, V.G.P.Rajadas,
V.G.P.Square,
No.6, Dharmaraja Koil Street,
Saidapet,
Chennai 600 015.

...petitioner in

W.P.Nos.4029, 7093, 7550, 8143, 8144, 8145, 8146, 8147, 8613, 11163, 8992, 11115, 12152, 15786, 17363, 19162, 20346, 20525, 21065, 21070, 21071, 21072, 21073, 21074, 22304, 22863, 22864, 22865, 22866, 24062, 24063, 24106, 25821, 25822, 27200, 29433, 31442, 31950, 31952, 33240, 33241, 33242, 35032, 35034, 35035, 35257, 35259, 35260, 35261, 35263, 35264, 35262, 35258 of 2012 and W.P.Nos.3406, 3543, 3544, 4662, 5222, 5564, 5922, 6592, 7910, 8765, 8766, 8767, 8768, 12300, 12301, 12302, 12303, 13081, 13532, 13533, 13534, 13847, 13848, 13849, 16035, 16036, 16037, 16044, 16045, 16077, 16078 of 2013.

vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Industrial Department,



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Fort St. George,
Chennai- 600 009.

2.The District Collector,
Kancheepuram District,
Kancheepuram.

3.The Special Tahsildar (L) Unit-3,
SIPCOT,
Sriperumbudur Expansion Scheme-2,
Sriperumbudur.

...Respondents in

W.P.Nos.4029, 7093, 7550, 8143, 8144, 8145, 8146, 8147, 8613, 11163, 8992, 11115, 12152, 15786, 17363, 19162, 20346, 20525, 21065, 21070, 21071, 21072, 21073, 21074, 22304, 22863, 22864, 22865, 22866, 24062, 24063, 24106, 25821, 25822, 27200, 29433, 31442, 31950, 31952, 33240, 33241, 33242, 35032, 35034, 35035, 35257, 35259, 35260, 35261, 35263, 35264, 35262, 35258 of 2012 and W.P.Nos.3406, 3543, 3544, 4662, 5222, 5564, 5922, 6592, 7910, 8765, 8766, 8767, 8768, 12300, 12301, 12302, 12303, 13081, 13532, 13533, 13534, 13847, 13848, 13849, 16035, 16036, 16037, 16044, 16045, 16077, 16078 of 2013.

Prayer in W.P.Nos.4029, 7093, 7550, 8143, 8144, 8145, 8146, 8147, 8613, 11163, 8992, 11115, 12152, 15786, 17363, 19162, 20346, 20525, 21065, 21070, 21071, 21072, 21073, 21074, 22304, 22863, 22864, 22865, 22866, 24062, 24063, 24106, 25821, 25822, 27200, 29433, 31442, 31950, 31952, 33240, 33241, 33242, 35032, 35034, 35035, 35257, 35259, 35260, 35261, 35263, 35264, 35262, 35258 of 2012 and W.P.Nos.3406, 3543, 3544, 4662, 5222, 5564, 5922, 6592, 7910, 8765, 8766, 8767, 8768, 12300, 12301, 12302, 12303, 13081, 13532, 13533, 13534, 13847, 13848, 13849, 16035, 16036, 16037, 16044, 16045, 16077, 16078 of 2013: These writ petition has been filed under Article 226 of the Constitution of India, to issue a writ of



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certiorari to call for the record of the first respondent in No.II(2)/IND/467(e-4)/2011 in Tamil Nadu Government Gazette in the extraordinary issue published on November 29th 2011 and the communication of the second respondent No.RC.No.10/2010 dated 20.01.2012 respectively without following the due process of law as void ab initio and quash the same.

W.P.No.12873 of 2012

Mutiara Roofing Industries Pvt Ltd,
Formerly known as:
Logos Roofing Pvt Ltd,
No.124, Vallam A village,
Sriperumbudur Taluk,
Kancheepuram District 602 105

Petitioner

Vs.

1.Govt. of Tamil Nadu Industrial Department,
Rep. Secretary,
Industrial Department,
Chennai-9.

2.District Collector,
Kancheepuram.

3.Special Tahsildar (LA),
Sriperumbudur Extension,
Scehem 2, Alagu-4,
Sriperumbudur, Kancheepuram District.

....Respondents



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Prayer: This writ petition has been filed under Article 226 of Constitution of India to issue a writ of certiorarified mandamus calling for the records pertaining to G.O.Ms.No.59, Industries (Sipcot-LA) issued by the first respondent and published in Tamil Nadu Government Gazette dated 02.03.2012 quash the same and direct the 1st respondent to consider the resrepresentation dated 09.04.2012 and delete the petitioner's land situated at Survey No.22 of 2A1 Vallam Village, 124 Sriperumbudur.

W.P.No.15424 of 2012

B.Dhanalakshmi

...Petitioner

Vs.

1. The Special Tahsildar (LA)
SIPCOT, Unit-V,
Sriperumpudur Expansion Scheme,
Sriperumpudur-Kancheepuram District.
- 2.The District Collector,
Kancheepuram.
- 3.The Secretary,
Ministry of Industries,
Government of Tamil Nadu,
Fort St. George, Chennai-9.

...Respondents

Prayer: This writ petition has been filed under Article 226 of Constitution of India to issue a writ of certiorarified Mandamus to call for records of the 1st respondent in his R.C.No.45 of 2010 a Unit V dated 05.05.2012 and quash



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the same and pass a consequential direction to the 2nd respondent not to exercise the power under Section 4(3) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 of the petitioner's land in S.No.267/1 to 5 and 268/3.

W.P.No.35033 of 2012

K.Rathinakumar

...Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary,
Department of Industries,
Fort St. George, Chennai-600 009.
- 2.The District Collector,
Kancheepuram District,
Kancheepuram.
- 3.The Special Tahsildar,
Land Acquisition,
Unit-3, SIPCOT,
Sriperumbudur Expansion Scheme -II,
Sriperumbudur, Kancheepuram District.
- 4.The Managing Director,
SIPCOT Unit-III,
Sriperumbudur Expansion Scheme,
19-A, Rukmani Lakshmipathi Salai,
Egmore, Chennai- 600 008.



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Prayer: This writ petition has been filed under Section 226 of Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records pertaining to the Acquisition Notification in G.O.M.S.No.113, Industries (SIPCOT-LA) 04-06-2012, on the file of the 1st respondent issued under Sub-Section (1) of Section 3 of the Tamil Nadu Acquisition of Land for industrial Purposes Act, 1997, published in the Tamilnadu Government Gazette Extraordinary No.149-Part-II-Section 2 dated 04-06.2012 relating to the property schedule therein and in so far as the petitioner property is concerned, being the housing site in Plot No.994, Comprised in Survey No.315/2A measuring to an extent of 2400 square feet in Mathur Village, Sriperumbudur Taluk, Kancheepuram District and quash the same and consequently direct the 1st respondent to conduct personal hearing to the petitioner as per the representation dated 12.02.2010 by furnishing the report of the respondents 3 and 4.

W.P.No.18184 of 2014

Radha Santhanam

...Petitioner

Vs.

1.The State of Tamilnadu,
rep. by its Secretary to Government,
Industrial Department,
Secretariat, Chennai.



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2. The District Collector,
Kancheepuram District, Kancheepuram.

3. The Special Thasildar (land Acquisition)
Unit-II, SIPCOT, Oragadam Expansion Scheme-2,
Sriperambudur-602 105.

4. The Managing Director,
Land Acquisition Unit-2, SIPCOT,
Oragadam Expansion Scheme-II,
Sriperambudur-602 105.

5. Sub Registrar,
Office of the Sub-Registrar,
Sriperambudur.

...Respondents

Prayer: This writ petition has been filed under Article 266 of Constitution of India to issue a writ of certiorarified mandamus to call for the records of the 1st respondent contained in G.O.Ms.No.113, Industries (SIPCOT-LA) dated 04.06.2012 and to quash the same as it is arbitrary, unreasonable and unconstitutional exercise of power insofar as it applies to the petitioner's land and consequently direct the respondents not to acquire the lands at Plot No.1010, comprised in Survey Nos.315/2, 316 situated at No.180, Mathur Village, Sriperambudur Taluk, Kancheepuram District from the petitioner herein.



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In all Writ petitions and writ appeals:

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- | | |
|-----------------|--|
| For Appellant | : Mr.N.Doraikannan
(in W.A.No.1063 of 2012 etc., batch) |
| For Petitioner | : Mr.S.Sairaman
(in W.P.No.4029 of 2012 etc., batch) |
| | : Mr. I.Abbar Md Abdullah
(in W.P.No.8613 of 2012 etc., batch) |
| | : Mr.R.Subramaniam
for B.Ravi
(in W.P.No.12873 of 2012 etc., batch) |
| | : Mr.M.Raja Sekhar
(in W.P.No.15786 of 2012 etc., batch) |
| | : Mr.R.Rajesh
(in W.P.No.18184 of 2014 etc., batch) |
| | : M/s.K.M.Ramesh
(in W.P.No.29433 of 2012 etc., batch) |
| For Respondents | : Mr.N.R.R.Elango (Senior counsel)
for M/s.Sudharshana Sunder
(in W.A.No.1223 of 2012 etc., batch) |
| | : Mr.K.V.Sanjeevkumar
Special Government Pleader
(W.A.No.1063 of 2012 etc., batch) |
| | : Mr.R.Subramaniam
for B.Ravi
(in W.P.No.12873 of 2012 etc., batch) |



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COMMON ORDER

(Order of the Court was delivered by **S.SOUNTHAR, J.**)

Factual Back grounds:

1. These writ appeals and writ petitions are arising out of land acquisition proceedings initiated under provisions of Tamil Nadu Acquisition of Land for Industrial Purposes Act, for expansion of Industrial Park promoted by SIPCOT under Oragadam Industrial Growth Centre Expansion II, Sriperumbudur Expansion Scheme II and Cheyyar Industrial Complex. The Tamil Nadu Government has issued administrative sanction for acquisition of lands on 06.01.2009. The lands are situated in Vadakal-A, Vadakal-B, Vallam-A, Vallam-B, Budanur Villages of Sriperumbudur Taluk, Kancheepuram District and also Vaipur, Mathur and Perinjambakkam Villages of Sriperumbudur Taluk, Kancheepuram District. The writ petitions are filed challenging the Section 3(1) notification issued under Tamil Nadu Acquisition of Lands for Industrial Purposes Act.

2. The writ Appeal No.1063 of 2012 is filed challenging the dismissal of writ petition No.9557 of 2011 upholding 3(1) notification issued under



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acquisition proceedings. The writ appeal No.1223 of 2012 is filed by the Government challenging the allowing of the writ petition No.21377 of 2011 quashing the 3(1) notification. All other writ petitions are challenging the 3(1) notification. Since, all these writ petitions and writ appeals are relating to acquisition proceedings initiated for expansion of Industrial projects promoted by SIPCOT all the cases are grouped together for hearing.

Classification of cases for disposal:

3. In the writ appeals mentioned above, the validity of 3(1) notification is to be determined and hence it will be dealt with separately in paragraph 29 to 30 of this order.

4. The writ petitions dealt with in paragraph 25 to 28 of this order are relating to specific points raised by the respective writ petitioners challenging the validity of 3(1) notification. Therefore, those writ petitions are also separately dealt with in paragraph 25 to 29.

5. The main common point arising for consideration in this batch of cases is what is the base date for determination of compensation. Whether the



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date of 3(2) notice issued under the Tamil Nadu Acquisition of Land for Industrial Purposes Act (herein after called as Industrial Purposes Act) should be taken as the base date for determination of compensation or the date of coming into force of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act 2013, (hereinafter called as Central Act 30 of 2013), should be considered for determination of compensation. In all other writ petitions except the writ petition dealt with in paragraph 26 to 29 of in this order, though the petitioners questioned the validity of Section 3(1) notification, confined their argument to the point that whether the date of coming into force of Central Act 30 of 2013 namely 01.01.2014, should be taken as a base date for determination of compensation. The same was opposed by Government by stating the date of 3(2) notice shall be taken as a base date. Hence we have decided to take up that point for our determination first.

What is the base date for the determination of compensation ?

6. The pivotal question that arises for consideration in these writ petitions is what is the base date for determining compensation payable to the land owners whose lands were acquired under acquisition proceedings which



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was initiated prior to coming into force of Central Act 30 of 2013, but determination of compensation was made under the provisions of Central Act 30 of 2013?

7. The petitioners in W.P.Nos.4029, 7093, 7550, 8143, 8144, 8145, 8146, 8147, 8613, 11163, 8992, 11115, 12152, 15786, 17363, 19162, 20346, 20525, 21065, 21070, 21071, 21072, 21073, 21074, 22304, 22863, 22864, 22865, 22866, 24062, 24063, 24106, 25821, 25822, 27200, 29433, 31442, 31950, 31952, 33240, 33241, 33242, 35032, 35034, 35035, 35257, 35259, 35260, 35261, 35263, 35264, 35262, 35258 of 2012 and W.P.Nos.3406, 3543, 3544, 4662, 5222, 5564, 5922, 6592, 7910, 8765, 8766, 8767, 8768, 12300, 12301, 12302, 12303, 13081, 13532, 13533, 13534, 13847, 13848, 13849, 16035, 16036, 16037, 16044, 16045, 16077, 16078 of 2013, though challenged the notification issued under Section 3(1) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, instead of challenging land acquisition on merits, confined their arguments with regard to the question of fixation of base date for the purpose of determining compensation.



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8. As per the admitted case of the parties, the land acquisition proceedings in question were initiated under Tamil Nadu Acquisition of Land for Industrial Purposes Act, for expansion of SIPCOT projects mentioned above. It is also admitted by all the parties that no award had been passed determining compensation payable to the land owners affected by acquisition proceedings before coming into force of Central Act 30 of 2013.

9. The cases in which land acquisition was initiated under old act and the compensation has not been paid to the land owners before coming into force of Central Act 30 of 2013 are governed by Section 24 of Central Act 30 of 2013 which reads as follows:

"24.Land acquisition process under Act 1 of 1894 shall be deemed to have lapsed in certain cases.- (1) Notwithstanding anything contained in this Act, in any case of land acquisition, land proceedings initiated under the Land Acquisition Act, 1894 (1 of 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, rehabilitation and resettlement shall apply; or

(b) where an award under said Section 11 has been



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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:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act:"

10. The determination of compensation amount under the Tamil Nadu Acquisition of Land for Industrial Purposes Act is governed by Section 6 and 7 of the said Act. The Section 6 of the Tamil Nadu Acquisition of land for



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Industrial Purposes Act reads as follows:

*"6. **Right to receive amount.**-Every owner or person interested in any land acquired under this Act, shall be entitled to receive and be paid an amount as hereinafter provided."*

11. Section 7 of said Act reads as follows:

*"7. **Determination of amount.**- (1) Where any land is acquired by the Government under this Act, the Government shall pay an amount for such acquisition, which shall be determined in accordance with the provisions of this section.*

(2) Where the amount has been determined by agreement between the Government and the person to whom the amount has to be paid, it shall be paid in accordance with such agreement.

(3) Where no such agreement can be reached, the Government shall refer the case to the Collector for determination of the amount to be paid for such acquisition as also the person or persons to whom such amount shall be paid:

Provided that no amount exceeding such amount as the Government may, by general or special order, specify, to be paid for such acquisition shall be determined by the



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Collector without the previous approval of the Government or such officer as the Government may appoint in this behalf.

(4) Notwithstanding anything contained in sub-section (3), after the case is referred to the Collector under that sub-section, but before he has finally determined the amount, if the amount is determined by agreement between the Government and the person to whom the amount has to be paid, such amount shall be paid by the Collector in accordance with such agreement.

(5) Before finally determining the amount, the Collector shall give an opportunity to every person to whom the amount has to be paid to state his case as to the amount.

(6) 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 (Central Act I of 1894), subject to modification that in the said sections 23 and 24, the reference to the date of publication of the notification under sub-section (1) of Section 4 and the date of publication of the declaration under section 6 of the said Act shall be construed as reference to the date of publication of notice under sub-sections (2) and (1), respectively, of section 15 of this Act.

(7) For the purpose of determining the amount -



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(a) the Collector shall have power to require any person to deliver to him such returns and assessments as he considers necessary;

(b) the Collector shall also have power to require any person known or believed to be interested in the land to deliver to him a statement containing as far as may be practicable, the name of every other person interested in the land as co-owner, mortgagee, tenant or otherwise, and the nature of such interest, and of the rents and profits, if any, received or receivable on account thereof for three years next preceding the date of the statement.

(8) Every person required to deliver a return, assessment or statement under sub-section (7) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code (Central Act XLV of 1860).

(9) The Collector may hear expert witnesses if it be necessary to do so in any particular case.

(10) The Collector or any officer authorised by him in this behalf shall be entitled to enter in and inspect any land which is subject to proceedings before him.

(11) The Collector shall dispose of every case referred to him under sub-section (3) for determination of amount as expeditiously as possible and in any case within six months from the date of such reference.



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(12) Where any case is referred to any Collector under sub-section (3), the Government may, at any stage by order, in writing and for reasons to be recorded therein, transfer it to any other officer, and upon such transfer, unless some special directions are given in the order, the officer to whom the case is transferred, may hear and dispose of the case from the stage at which it was transferred or the case may be heard and disposed of by him denovo."

12. The combined reading of the above said provisions make it clear that by virtue of Section 24(1)(a) of Central Act 30 of 2013, if no award under Section 11 of old Act has been made determining compensation in respect of the lands acquired under the old Act, all provisions of Central Act 30 of 2013 relating to determination of compensation shall apply.

13. The first proviso to Section 26 of Central Act 30 of 2013 makes it clear that the date for determination of market value shall be the date on which the notification has been issued under Section 11. Though Section 24(1)(a) of Central Act 30 of 2013 says that in cases where no award has been made determining compensation in respect of the lands for which acquisition



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was initiated under old Act, the provisions of new Act is applicable, there is no clear provision in the said Act as to what is the base date for determination of value of the land. Section 26 of central Act 30 of 2013 only refers to the Section 11 notification issued under New Act. As far as cases in which acquisition proceedings were already initiated under the old Land Acquisition Acts or any other Special Land Acquisition Acts as in the case of Tamil Nadu Acquisition of Lands for Industrial Purposes Act, what is the base date for determination of compensation has not been indicated in the New Act.

14. The learned counsel appearing for the petitioners submitted that the base date for determination of compensation shall be the date of coming into force of Central Act 30 of 2013 namely 01.01.2014 and they relied on the circular issued by Department of Land Resources, Ministry of Rural Development, Government of India, dated 26.10.2015, wherein it has been clarified that in cases where land acquisition proceedings was initiated under old Act and no award has been passed before coming into force of New Act i.e., Central Act 30 of 2013, the base date for determination of market value shall be 01.01.2014. The learned counsel for the petitioners also relied on the decision of the Hon'ble Apex Court in *Aligarh Development Authority*



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versus Megh Singh and others, reported in 2016 (4) MLJ 662 (SC), wherein it was held that in cases where award had not been passed under the old Act, on the date of coming into force of new Act, then the determination of compensation shall be as per the provisions of new Act (Central Act 30 of 2013). The learned counsel for the petitioner also relied on the Division Bench Judgment of the Allahabad High Court, dated 09.05.2017 made in *Writ (C) No.60276 of 2015, Ishan Industrial Educational Society through its Director versus State of Uttar Pradesh and others, reported in MANU/UP/0203/2022* for the proposition, in cases where compensation is determined under new Act in respect of the acquisition proceedings initiated under old Act, the base date would be 01.01.2014.

15. Per contra, Mr.N.R.Ilango, the learned senior counsel appearing for the respondents submitted that in order to continue the acquisition proceedings initiated under Tamil Nadu Acquisition of Land for Industrial Purposes Act, and Other Special enactment, after coming into force of Central Act 30 of 2013, Tamil Nadu Legislature passed an amendment Act, namely Act 1 of 2015 incorporating Section 105-A in the Central Act 30 of 2013 and the said provision was subsequently struck down by this Court in the *Caritas*



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India vs. Union of India and Others reported in 2019 (4) CTC 737. In these circumstances, the Tamil Nadu Legislature passed the Tamil Nadu Land Acquisition Laws Revival of Operation, Amendment and Validation Act, 38 of 2019 to revive all provisions of Tamil Nadu Acquisition of Land for Industrial Purposes Act, except the provisions relating to determination of compensation. Relying on the Section 6 of Tamil Nadu Act 38 of 2019, the learned senior counsel submitted that all notices, orders issued under Industrial Purposes Act, got revived from 26.09.2013 by virtue of Revival Act 38 of 2019. The learned senior counsel further submitted that Section 7(6) of Industrial Purposes Act, declares that while determining compensation, the Collector shall be guided by provisions of Section 23 and 24 of Land Acquisition Act of 1894. In view of the repeal of Land Acquisition Act 1894 by Central Act 30 of 2013 the said provisions are no longer available for determining the market value. Therefore, the Collector will be guided by provisions of Section 26 of Central Act 30 of 2013. He further submitted that as per provisions of Section 26 of Central Act 30 of 2013, the determination of market value shall be based on the date on which notification under Section 11 was published. The learned senior counsel further submitted that notification under Section 11 contemplated under Central Act 30 of 2013 is



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the preliminary notification. Likewise, the notification under Section 3(2) Industrial Purposes Act is also preliminary in nature. Consequently, the date on which notification under Section 3(2) of Industrial Purposes Act was published should be taken as base date for determination of compensation. According to the learned senior counsel in the case on hand notices under Section 3(2) notice were issued on various dates between 12.02.2010 to 24.05.2010. Therefore the learned senior counsel submitted the date on which 3(2) notice was published in individual cases should be taken as a base date for the purpose of determination of compensation under Central Act 30 of 2013.

16. In view of the submissions made by both the parties, there is no controversy with regard to the application of Central Act 30 of 2013 for the purpose of determination of compensation. The only controversy that arises for consideration is the fixation of base date for determination of compensation.

17. The learned counsel for the petitioners submit that the base date should be 01.01.2014, the date of coming into force of Central Act 30 of



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2013. Whereas the learned senior counsel for respondent submits that the base date should be the date of issuance of notification under Section 3(2) of Industrial Purposes Act which is preliminary in nature and similar to preliminary notification contemplated under Section 11 of Central Act of 30 of 2013.

18. The conjoined reading of provisions of Tamil Nadu Acquisition of Land for Industrial Purposes Act and Tamil Nadu Land Acquisition Laws (Revival of operation, amendment and Validation Act, 2019) makes it clear even in cases where acquisition was initiated under Tamil Nadu Acquisition of Land for Industrial Purposes Act, prior to coming into force of Central Act 30 of 2013, the determination of compensation shall be in accordance with Central Act by virtue of Section 6(3) of Tamil Nadu Land Acquisition Law(Revival of Operation Amendment and Validation Act, 2019). The Tamil Nadu Act 38 of 2019 revives all the provisions of Tamil Nadu Acquisition of Land for Industrial Purposes Act, except provisions relating to determination of compensation. Before coming into force of Central Act 30 of 2013 the determination of compensation for acquisitions under Tamil Nadu Industrial Purposes Act was governed by Section 7 of said Act. The Section 7(6) of said



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Act declares that the Collector shall be guided by provisions of Section 23 and 24 of Land Acquisition Act 1894 while determining compensation. After coming into force of Central Act 30 of 2013, land acquisition under various Tamil Nadu Special Land Acquisition Acts became cumbersome by virtue of its repugnancy with central enactment. Therefore, in order to remove the difficulty Tamil Nadu Legislature passed an amending Act, namely, Tamil Nadu Act 1 of 2015 incorporating Section 105-A and thereby excluding the application of Central Act to various Special Tamil Nadu Enactments relating to land acquisition proceedings specified in the Fifth schedule. The said provision under Section 105-A introduced by Tamil Nadu Legislature was struck down by this Court. Therefore, in order to revive the Special enactments for various land acquisition purposes, including industrial purposes Tamil Nadu Legislature passed Tamil Nadu Land Acquisition Laws (Revival of operation, Amendment and validation Act 2019) (herein referred as Act 38 of 2019). The said Act revived all the provisions of Tamil Nadu Acquisition of Land for Industrial Purposes Act except provision relating to determination of compensation. Therefore, as on today, there is no provision in Tamil Nadu Acquisition of Land for Industrial Purposes Act for determination of Compensation. However, the said lacuna is sought to be



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filled up by Section 6 (3) of Tamil Nadu Act of 38 of 2019 which reads as follows:

"6. Revival of operation of Tamil Nadu Act 10 of 1999.- (1)

All the provisions of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (Tamil Nadu Act 10 of 1999) (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 (Central Act 30 of 2013) shall apply to the land acquisition proceedings under the 1999 Act."



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1. The careful reading of above Section 6(3) makes it clear that Section 7 of Tamil Nadu Acquisition of Land for Industrial Purposes Act, relating to determination of compensation, which mandates application of Section 23 and 24 of Land Acquisition Act of 1894 is not revived and even in respect of acquisitions made under Tamil Nadu Acquisition of Land for Industrial Purposes Act, the compensation shall be determined only in accordance with Central Act 30 of 2013. However, neither in Tamil Nadu Act 30 of 2019 nor in the Central Act 30 of 2013, there is any provision for fixing base date for determining compensation in respect of the acquisitions initiated under various old legislations prior to coming into force of Central Act 30 of 2013. The proviso to Section 26 of Central Act 30 of 2013, fixes the date of notification issued under Section 11 of said Act as the base date for fixation of compensation. However, in respect of the land acquisition proceedings initiated prior to coming into force of New Central Act, in respect of which no notification under Section 11 of New Act would be available, what is the relevant date for fixation of compensation is a grey area, which was not cleared by the Legislature in its wisdom.



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20. When, there is no clear provision in the Act for fixing base date for determination of compensation in respect of the land acquisitions proceedings initiated prior to coming into force of Central Act 30 of 2013, this Court necessarily has to invoke doctrine of purposive interpretation and interpret the provisions so as to remove the doubt accordingly. Therefore, let us see, the statement of object and reasons for Central Act 30 of 2013 which reads as follows:

".....5. It is now proposed to have a unified legislation dealing with acquisition of land, provide for just and fair compensation and make adequate provisions for rehabilitation and resettlement mechanism for the affected persons and their families. The Bill thus provides for repealing and replacing the Land Acquisition Act, 1894 with broad provisions for adequate rehabilitation and resettlement mechanism for the project affected persons and their families." (emphasis supplied)

21. The above statement tells us that one of the preliminary objects of Central Act 30 of 2013 is to award just and fair compensation to the land owners whose land are sought to be acquired for public purpose compulsorily. The basis for such an object lies in maintaining a balance between the public purpose and individual property rights. The right to property is a



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constitutional right under Article 300-A of Indian Constitution. Therefore, no person shall be deprived of his property save by authority of law. The right to property is not only a Constitutional Right but it is also recognised as a basic human right by the Hon'ble Apex Court, in ***Bhusawal Municipal Council Vs. Nivrutti Ramchandra Phalak and others reported in 2015 (14) SCC 327.***

The relevant observation of the Hon'ble Apex Court is as follows:

"13. In Tukaram Kana Joshi & Ors. v. Maharashtra Industrial Development Corporation & Ors., MANU/SC/0933/2012 : AIR 2013 SC 565, this Court held that right to property is not only a Constitutional or a statutory right but also a human right and human rights are considered to be in realm of individual rights which are gaining an even greater multifaceted dimension and, therefore, in case the person aggrieved is deprived of the land without making the payment of compensation as determined by the Collector/court, it would tantamount to forcing the said uprooted persons to become vagabond or to indulge in anti-social activities as such sentiments would be born in them on account of such ill treatment. Therefore, it is not permissible for any State/authority to uproot a person and deprive him of his human rights, without ensuring compliance of the statutory requirement under the garb of development.



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14. In *K. Krishna Reddy & Ors. v. The Special Dy. Collector, Land Acquisition Unit II, LMD Karimnagar, Andhra Pradesh*, MANU/SC/0217/1988 : AIR 1988 SC 2123, this Court while directing the statutory authorities to make the payment of compensation at the earliest observed that the person so uprooted may not be having any savings, he may not be knowing any other avocation, thus, he may face starvation with rising inflation. A delayed payment may lose the charm and utility of the compensation. Thus, the compensation must be determined and paid without loss of time.

15. In *Narain Das Jain (since deceased) by Lrs. v. Agra Nagar Mahapalika, Agra*, MANU/SC/0619/1991 : (1991) 4 SCC 212, this Court placed reliance upon various reports including the report of the Law Commission of India which made it clear that “community has no right to enrich itself by deliberately taking away the property of any of its members in such circumstances without providing adequate compensation for it”.

Therefore the protection given under Article 300 A will become an empty formality, if just and fair compensation is not given to the persons whose properties are compulsorily acquired for public purpose. The payment of compensation for the sake of complying with the provisions of law alone is not sufficient but such compensation so paid shall be just and fair. The



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Central Act 30 of 2013 was passed by Parliament having this object in its wisdom.

22. Now let us try to clear the grey area in the legislation having this object in our mind. The Section 26 of Central Act 30 of 2013, declares how the compensation amount shall be determined. The proviso to the said Section 26(1) says that date of notification contemplated under Section 11 of the Act shall be the base date. The Act came into force on 01.01.2014, therefore any notification contemplated under Section 11 could not have been issued prior to 01.01.2014. As far as land acquisition proceedings which were initiated under the old legislation prior to coming into force of Central Act 30 of 2013, there will be no notification issued under Section 11 of New Act. If we accept the argument of the learned senior counsel, the date of issue of Section 3(2) notice under Industrial Purpose Act, which is preliminary in nature similar to the preliminary notification contemplated under Section 11 of the Central Act 30 of 2013, should be the base date for determining compensation. It would result in fixing a date prior to 01.01.2014. While enacting the proviso to Section 26 of the Central Act 30 of 2013, the Parliament certainly would not have contemplated a base date prior to coming into force of New Act. When



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Parliament in its wisdom legislated that the provisions of the New Act is applicable for determination of compensation for the land acquisitions proceedings initiated prior to coming into force of the New Act, when no award had been passed, fixing a date prior to coming into force of the New Act as a base date for the purpose of determining compensation would not advance the object of the enactment extracted above. Therefore, we are of the considered view whenever compensation amount is to be determined under provisions of the Central Act 30 of 2013 in respect of the land acquisitions initiated under old enactments, the base date shall be the date of coming into force of the Central Act 30 of 2013, but not the date on which preliminary notification was issued under old Act. In fact, the Department of Land Resources, the Ministry of Rural Development, Government of India in its clarificatory note dated 26.10.2015, while considering the very same question has clarified that the base date shall be taken as 01.01.2014. The extract of the relevant clarificatory note of the Government of India is as follows:

"Issues raised by the Government of Maharashtra:

For calculation of market value, under Section 24(1)(a), reference date should be 01.01.2014 (Commencement of RFCTLARR Act, 2013) or date of issuing preliminary notification



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under Land Acquisition Act, 1894?"

"Opinion of the DOLR:

The reference date for calculation of market value, under Section 24(1) (a) should be 01.01.2014 (Commencement of RFCTLARR Act, 2013), as the Section reads "in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, 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. Under Section 26 reference date is date of preliminary notification but Section 24 is a special case of application of the Act in retrospective cases, and a later date of determination of market value is suggested (i.e 01.01.2014) with a view to ensure that the land owners/farmers/affected families get enhanced compensation under the provisions of the RFCTLARR Act, 2013 (as also recommended by Standing Committee in its 31st report)."



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23. In addition there to, the very same question also came up before the Division Bench of Allahabad High Court, in ***Ishan International Educational Society through its Director versus State of Uttar Pradesh reported and others reported in MANU/UP/0203/2022***, wherein Allahabad High Court by placing reliance on the earlier three Division Benches of the said Court and also the clarificatory note prepared by the Government of India has held as follows:

"The three Division Bench judgments referred to above have also held that where land acquisition proceedings had commenced under the provisions of 1894 Act but award was not made prior to 1 January 2014 under Section 11 of the 1894 Act, then in that case, all the provisions of 2013 Act relating to determination of compensation shall apply and the date for determination of the market value of the land should be treated as 1 January 2014 in terms of the directions issued by the Central Government."

In the light of above observation, which squarely covers the issue raised in the present case, we agree with the views expressed by the Division Bench of Allahabad High Court. Therefore, we hold that the base date for the



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purpose of determining compensation under Central Act 30 of 2013 in the case on hand is the date of commencement of the Central Act 30 of 2013, namely 01.01.2014. Accordingly, the respondents are directed to pass a fresh award by taking 01.01.2014 as base date for determination of compensation.

24. The learned senior counsel relying on proviso to Section 24 submitted that in respect of Cheyyar Expansion Scheme, out of entire lands acquired the award has been passed and compensation amount also has been paid for more than 76% of the land owners. In respect of Vaipur Mathur Scheme after passing of award compensation has been paid to 68% of the land owners. In respect of the Vallam Vadagal Scheme also award has been passed and compensation has been paid in respect of 83% of the land owners. In respect of all these persons, date of Section 3(2) notice under Tamil Nadu Acquisition of Land for Industrial Purposes Act had been taken as base date for the purpose of determination of compensation. The learned senior counsel submitted in view of proviso to Section 24 of Central Act 30 of 2013, when award was already passed and amount is deposited in respect of majority of the land owners, the determination of compensation based on Section 3(2) notice need not be disturbed at the instance of the petitioners who are in



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minority. The proviso to Section 24 only says that where award amount has not been deposited in respect of majority of the land owners, the benefit of application of New Act should be made applicable to all the land owners whose names are found place in Section 4(1) notice issued under the Land Acquisition Act. But in the case on hand, admittedly no award has been passed and amount has been deposited prior to coming into force of the New Act. Even as per the admitted case of the respondents in the counter, award has been passed by applying provisions of the New Act subsequent to coming into force of the said act. Therefore, the respondents cannot take shelter under the said proviso to Section 24 to deny the benefit of fixing fair and just compensation.

W.P.No.18184 of 2014

25. The main point urged by the writ petitioner questioning 3(1) notification is that the writ petitioner had not received any notice under Section 3(2) of Acquisition of Lands for Industrial Purposes Act. The perusal of the counter filed in W.P.No.18184 of 2014 make it clear that 3(2) notice was sent to the writ petitioner on 25.01.2010 and same was returned undelivered on 30.01.2010. We have also seen the returned cover produced by the learned Government Pleader. The name of the writ petitioner is wrongly



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typed as Radha Krishnan w/o Santhanam instead of Radha Santhanam.

Since, the notice was issued by mentioning wrong name of the petitioner, it was not served on her and the same was returned. Therefore, on the face of it, it is clear that the notice issued under Section 3(2) of Acquisition of Land for Industrial Purposes had not been served upon the petitioner, therefore, the 3(1) notification issued in this case without complying with the mandatory conditions mentioned in Section 3(2) of Acquisition of Land for Industrial Purposes Act gets vitiated. Therefore, the writ petition deserves to be allowed and impugned notification under Section 3(1) is therefore quashed allowing the writ petition.

W.P.No.35033 of 2012

26. The main contention of the writ petitioner in this case is absence of notice under Section 3(2) prior to the notification under Section 3(1). As per the counter affidavit filed by the respondent, notice has been sent to the writ petitioner on 27.01.2010 and the same has been returned on 01.02.2010. Subsequently, paper publication as well as publication in local daily were done on 14.01.2010 and 22.01.2010 respectively. The respondent initially made a genuine attempt to serve the petitioner personally by sending the



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notice to the correct address of the petitioner but the same has been returned.

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Hence the respondent resorted to the other modes of service prescribed under the Act, namely, the Public Notice by paper publication and publication in the local daily. Therefore, there is substantial compliance of Section 3(2) of the Act. We cannot find fault with the Land Acquisition Officer when the notice is sent to the correct address of the petitioner and the same is returned for no fault on their part. Further, it is seen from the counter affidavit of 2nd respondent that as per orders passed by this Court in W.P.No.6545 of 2010 and batch cases, filed by other land owners, subsequently, the writ petitioner appeared before 2nd respondent/District Collector with his objections for acquisition of his lands. His objections were considered and rejected. The said order was also communicated to petitioner before the issuance of Section 3(1) notification. Hence, the contention of the writ petitioner deserves to be rejected and accordingly rejected. Therefore, the writ petition is dismissed upholding Section 3(1) notification issued by the respondent. However, in view of the our earlier finding that compensation amount shall be determined by taking 01.01.2014 as the base date, the benefit of that finding would enure to the writ petitioner also.



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W.P.No.12873 of 2012

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27.1. The writ petitioner questioned the Section 3(1) notification mainly on the ground that the writ petitioner is running an industry in the lands sought to be acquired. It was submitted by the learned Government Pleader that at the time of issuance of Section 3(2) notice there was no industry but however the petitioner had put up an industry subsequently taking advantage of interim stay granted by this Court on 30.05.2012. However, a perusal of various documents filed by petitioner in his typed set of papers would suggest that the industrial activity were found in his lands even prior to initiation of acquisition proceedings, namely in the year 2009 itself, whereas Section 3(2) notice was published only on 15.02.2010, even according to the averment found in the counter affidavit of the 2nd respondent. Further in the counter affidavit filed by the respondent in paragraph 9(e) it was admitted that there is an industry running in the land in question and the petitioners objection has been rejected by the Requisition Body. However, when objection was made by the petitioner in response to the Section 3(2) notice, the same shall be considered only by the District Collector by virtue of his delegated power. But we are unable to see whether the Deputy Collector has considered the objections. In the absence of any



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material to show that the objection made by the petitioner that he was running an industry in the land in question was considered, the order of rejection passed by the SIPCOT renders the acquisition notification initiated under Section 3(1) as invalid. Further, when the purpose of land acquisition is for the expansion of industrial complex, as the petitioner has already been running an industry, which is in tune with the object of purpose of land acquisition proceedings. The State Government established the industrial complex with an object to increase the employment opportunities among the educated and uneducated youths, therefore, in our considered view, the existing industry shall not be closed. If this Court accepts the stand of the respondent to close down the existing industry, then that would do away the very purpose of initiating acquisition proceedings for establishment of industrial complex. Hence, impugned notification issued under Section 3(1) of the Act closing down an existing industry shall be liable to be set aside. Thus, for these reasons, the writ petition stands allowed.

W.P.No.15424 of 2012

28. The writ petitioner seeks exemption of her land from the acquisition mainly on the ground that acquisition of petitioner's land with an extent of



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5.97 acres would cut of her access to her other lands with an extent of 20 acres. The learned counsel for the respondent submitted that the request of the petitioner seeking exemption cannot be considered in view of the fact that the land of the petitioner is locked on all sides and no purpose would be served by granting an exemption. Further, granting exemption to a piece of land in the midst of acquired land would affect the contiguity of the project. Therefore, in the light of the above reasons, the objection made by the writ petitioner is rejected and the writ petition is dismissed. However, it is made clear that our earlier findings that 01.01.2014 is a base date for determination of compensation will enure to the writ petitioner.

W.A.No.1063 of 2012

29. The writ appeal is filed challenging the order passed by the learned Single Judge in W.P.No.9557 of 2011 upholding the notification issued under 3(1) of Industrial Purposes Act. Though the main prayer of the appellant in the writ petition was challenged to the validity of 3(1) notification, at the time of argument of writ appeal, he confined his argument to the question of fixation of base date for the purpose of determination of compensation under



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the New Act. He also filed a written argument to that effect. In view of our earlier findings that the base date for determination of compensation is 01.01.2014, the writ appeal is disposed of with a direction to the respondents to take up award proceedings and pass award fixing compensation taking into account 01.01.2014 as a base date for determination of compensation in this case.

W.A.No.1223 of 2012

30.1 The above writ appeal is filed challenging the order passed by the learned Single Judge in W.P.NO.21377 of 2011. The notification issued under Section 3(1) of Industrial Purpose Act was quashed by the learned Single Judge mainly on the ground that the Government has not considered the objection made by the petitioner to the impugned acquisition proceedings and passed an order rejecting the same.

30.2. The learned senior counsel appearing for the appellant contended that though the Government is competent authority to exercise power under sub Sections 1, 2 and 3 of Section 3 of Industrial Purpose Act, as per Section 23-A of said Act, the Government is entitled to delegate by issuing



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notification all the powers under this act to the District Collector except the powers under Section 3(1), Section 4(1) and Section 25. Therefore before issuing notification under Section 3(1), the power to issue notice to the interested persons and considering their objections etc., which are available under Section 3(2) and 3(3) can very well be delegated to the District Collector. The Government of Tamil Nadu in-fact issued a notification delegating all of its power under the Act to the District Collector, except the powers which cannot be delegated under Section 23-A of Industrial Purpose Act, in G.O.Ms.No.513, Revenue (LAI(1)) dated 02.09.2005. Therefore the notice issued by the District Collector and the enquiry conducted by him is sufficient to issue notification under Section 3(1) of the Act and it is not necessary for the Government to issue notice and consider objection by itself. The learned Senior Counsel further submitted that the Government by order No.281 dated 05.12.2007, Industries (SIPCOT - LA) department had accorded administrative sanction for acquisition of lands covered under the notification and that itself would amount to formation of opinion by the Government with regard to the requirement of the land for industrial purposes. In this context it is relevant to extract Section 3 of Industrial Purpose Act reads as follows:



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"3.Power to acquire land. - (1) If, at any time, in the opinion of the Government, any land is required for any industrial purposes, or for any other purpose in furtherance of the objects of this Act, they may acquire such land by publishing in the Tamil Nadu Government Gazette a notice specifying the particular purpose for which such land is required.

(2) Before publishing a notice under sub-section (1), the Government shall, call upon the owner and any other person, who is in the opinion of the Government may be interested in such land, to show cause within such time as may be specified in the notice, why the land should not be acquired. The Government shall also cause a public notice to be given in such manner as may be prescribed.

(3) The Government may pass an order under sub-section (1) after hearing and considering the cause, if any, shown by the owner or person interested."

Section 23 A of Industrial Purpose Act reads as follows:

"[23-A.Delegation of powers.- The Government may, by notification, direct that all the powers under this Act except the powers,-

(1) to issue notice under sub-section (1) of section 3;

(2) to withdraw the land from acquisition under the



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first proviso to sub-section (1) of section 4; and
(3) to make rules under section 25,
shall, subject to such conditions, if any, as may be specified
in the notification, be exercised by the Collector.]"

30.3. A conjoined reading of the above Section 3 and Section 23-A makes it clear that except the power under Section 3(1) of Industrial Purpose Act and certain other powers mentioned under Section 23-A, all other powers available to the Government under the Act can be delegated to the District Collector. In exercise of powers under Section 23 A, the Tamil Nadu Government had issued a Government Order delegating all the powers to the District Collector in G.O.Ms.No.513 dated 02.09.2005 and the same is extracted below.

"REVENUE DEPARTMENT
DELEGATION OF POWERS OF GOVERNMENT TO
DISTRICT COLLECTORS UNDER THE TAMIL NADU
ACQUISITION OF LAND FOR INDUSTRIAL PUROPOSES
ACT, 1997.

[G.O.Ms.No.513, Revenue (LAI(1), 2nd September 2005.]

NO.II(2)/REV/716(d)/2005.- In exercise of the powers
conferred by section 23-A of the Tamil Nadu Acquisition of



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Land for Industrial Purposes Act, 1997 (Tamil Nadu Act 10 of 1999), the Governor of Tamil Nadu hereby directs that all the powers exercisable by the Government under said Act except the powers excluded in the said section 23-A shall be exercised by the Collector of the district concerned.

(2) The Notification hereby issued shall come into force on the 2nd day of September, 2005.

[Published in Pat II - section 2 of the Tamil Nadu Government Gazette (Extraordinary), dated 2nd September 2005, Issue No.199]."

(Emphasis added)

30.4 Therefore, in the light of above G.O. the power exercisable by the Government under Section 3(3) of Industrial Purpose Act can be delegated to the District Collector under Section 23-A and the same has also been done in the G.O. extracted above. Therefore, we are not in agreement with the view taken by learned Single Judge that power under Section 3(3) (i.e., power to hear and pass orders on the objections of land owners) cannot be delegated to the District Collector. However, the District Collector while exercising power under Section 3(2) and 3(3) of Industrial Purpose Act must apply his mind independently and consider the objection of land owners on merits. The District Collector, being an authority enjoying delegated power under a



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notification issued under Section 23-A of Industrial Purpose Act cannot outsource his delegated power. In the case on hand the District Collector failed to apply his judicious mind on the objection of land owner/writ petitioner, rather he was carried away by the decision of requisitioning body. In this connection, it would be appropriate to point out the admission made by 4th appellant/District Collector in his counter affidavit and the same reads as follows:

"9. It is respectfully submitted that Enquiry under Section 3(2) was conducted by the fourth respondent on 24.06.2009. In consideration of the submissions made by the objectors and upon field verification on 22.10.2009, the fourth respondent issued instructions to acquire the above lands since, it has been ascertained in the enquiry that:

".. In this instance, the requisition department was asked to offer their remarks. The Chairman & Managing Director SIPCOT, Chennai in his letter No.LA/Cheyyar/Expansion/2008 dated 25.11.2009, has rejected the petitioner's request because the petitioner has not initiated any construction or improvement work for the Engineering College and all the lands in Mathur Village which are situated opposite to the existing SIPCOT Industrial Complex should be taken for



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SIPCOT expansion. More over, these lands lie in between the acquisition portion and if exempted, the contiguity of the scheme will be affected. Hence, the survey numbers 192 etc., are included in this 3(1) proposals."

"In these circumstances, the writ petitioner's objections to acquire above lands for SIPCOT Expansion were rejected."

....

"14. With regard to the contentions made in para 7 to 14 of the writ affidavit, it is respectfully submitted that in the matter of acquisition of lands under Section 3 of the above said Act, the main parties involved in the process are the Requisitioning Department and the land owners. All other Government agencies, including the fourth respondent herein are merely facilitators for furtherance of the object of the Act even if it is true that this respondent recommended exempting these lands from acquisition, the view of the SIPCOT Authorities, being end-users of the acquired lands, will prevail over the views of the other respondents. The petitioner's land are situated in the middle of the scheme area and it was felt by the requisitioning department that if the above lands are exempted, the scheme will be affected and hence, the writ petitioner's objection was rejected. In this connection, it is pertinent to note that the extent of the acquisition lands is 0.17.0 hectares and it is a vast stretch. If an Engineering College or any other educational institution is allowed to



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function in the midst of an industrial complex like SIPCOT, the contiguity of the project will be greatly affected. Since, the writ petitioner's land is lying in the midst of the SIPCOT Unit are, the Government has no other alternative than to reject the writ petitioner's representation to exempt their land from acquisition."

30.5. The close scrutiny of the above statement made by the 4th appellant/District Collector (Delegated Authority) in his counter affidavit makes it clear that he did not consider the objections of writ petitioner independently but he has simply adopted the view of SIPCOT, namely requisitioning body. The 4th appellant in his counter affidavit had gone to the extent of stating that though he recommended exemption of these lands from acquisition, the view of SIPCOT, being end users of the acquired lands will prevail over his view. Hence it is clear that the 4th appellant failed to apply his mind independently while rejecting objection of writ petitioners. Therefore, we hold that the rejection of the petitioner's objection by 4th appellant without independent application of mind is bad in law and therefore, the notification issued under Section 3 (1), impugned in this writ petition is liable to be quashed. We therefore, agree with the views of the learned Single Judge and hence writ appeal stands dismissed.



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31. In view of our findings in the common question that arose for consideration with regard to the determination of base date all other writ petitions are disposed off with direction to the respondent/Land Acquisition Officer to pass fresh award by taking 01.01.2014 as a base date for determination of compensation under Central Act 30 of 2013 after issuing notice to the land owners concerned by following the procedure in accordance with law.

32. **Conclusion:**

In the result,

i) The W.P.Nos.4029, 7093, 7550, 8143, 8144, 8145, 8146, 8147, 8613, 11163, 8992, 11115, 12152, 15786, 17363, 19162, 20346, 20525, 21065, 21070, 21071, 21072, 21073, 21074, 22304, 22863, 22864, 22865, 22866, 24062, 24063, 24106, 25821, 25822, 27200, 29433, 31442, 31950, 31952, 33240, 33241, 33242, 35032, 35034, 35035, 35257, 35259, 35260, 35261, 35263, 35264, 35262, 35258 of 2012 and W.P.Nos.3406, 3543, 3544, 4662, 5222, 5564, 5922, 6592, 7910, 8765, 8766, 8767, 8768, 12300, 12301, 12302, 12303, 13081, 13532, 13533, 13534, 13847, 13848, 13849, 16035, 16036, 16037, 16044, 16045, 16077, 16078 of 2013 are disposed with direction to respondents to pass fresh award fixing compensation for the land acquired by



W.A.No.1063 of 2012 etc., batch

taking 01.01.2014 as a base date for determination of compensation. The respondents are directed to pass award within a period of six months from the date of receipt of copy of this order.

ii) W.P.Nos.18184 of 2014 and 12873 of 2012 are allowed as indicated above by quashing 3(1) notification issued by the 1st respondent and published in Tamil Nadu Government Gazette dated 02.03.2012.

iii) W.P.Nos. 35033 of 2012 and 15424 of 2012 are dismissed. However, our earlier finding that 01.01.2014 is the base date for determination of compensation will enure to the writ petitioners.

iv) Writ Appeal No.1063 of 2012 is disposed of with a direction to the respondents to pass fresh award by taking 01.01.2014 as base date for determination of compensation.

v) Writ Appeal No. 1223 of 2012 stands dismissed.

vii) There shall be no order as to costs.

[T.R.,ACJ.] [S.S.,J]

17.10.2022

Index: Yes/ No
Speaking Order / Non-Speaking Order
jai/ub



W.A.No.1063 of 2012 etc., batch

To
WEB COPY

1. The Secretary to Government of Tamil Nadu,
Industries SIPCOT (LA) Department,
Fort St. George,
Chennai-9.
2. Special Commissioner and Commissioner for
Land Administration,
Chepauk, Chennai-5.
3. The Chairman and Managing Director,
State Industries Promotion Corporation of
Tamil Nadu Ltd.,
19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai-600 008.
4. The District Collector,
Tiruvannamalai District, Tiruvannamalai.
5. Special District Revenue Officer,
SIPCOT (Land Acquisition),
Kasikara Street,
Cheyyar-604 407.
6. Special Tahsildar
(SIPCOT-LA)
At No.9, Pathala Vinayagar Koil Street,
Cheyyar-604 407.
7. The District Collector,
Kancheepuram.
8. The Special Tahsildar (LA),
Sriperumbudur Extension,
Scehem 2, Alagu-4,
Sriperumbudur, Kancheepuram District.



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WEB COPY

9. The Special Tahsildar (LA)
SIPCOT, Unit-V,
Sriperumpudur Expansion Scheme,
Sriperumpudur-Kancheepuram District.
10. The Secretary,
Ministry of Industries,
Government of Tamil Nadu,
Fort St. George, Chennai-9.
11. The Special Tahsildar,
Land Acquisition,
Unit-3, SIPCOT,
Sriperumbudur Expansion Scheme -II,
Sriperumbudur, Kancheepuram District.
12. The Managing Director,
SIPCOT Unit-III,
Sriperumbudur Expansion Scheme,
19-A, Rukmani Lakshmipathi Salai,
Egmore, Chennai- 600 008.
13. The Special Thasildar (land Acquisition)
Unit-II, SIPCOT, Oragadam Expansion Scheme-2,
Sriperambudur-602 105.
14. The Managing Director,
Land Acquisition Unit-2, SIPCOT,
Oragadam Expansion Scheme-II,
Sriperambudur-602 105.
15. Sub Registrar,
Office of the Sub-Registrar, Sriperambudur.



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W.A.No.1063 of 2012 etc., batch

**THE HON'BLE ACTING CHIEF JUSTICE
and
S.SOUNTHAR, J.**

jai/ub

W.A.Nos.1063 and 1223 of 2012 and W.P.Nos.W.P.Nos.4029, 7093, 7550, 8143, 8144, 8145, 8146, 8147, 8613, 11163, 8992, 11115, 12152, 12873, 15424, 15786, 17363, 19162, 20346, 20525, 21065, 21070, 21071, 21072, 21073, 21074, 22304, 22863, 22864, 22865, 22866, 24062, 24063, 24106, 25821, 25822, 27200, 29433, 31442, 31950, 31952, 33240, 33241, 33242, 35032, 35033, 35034, 35035, 35257, 35259, 35260, 35261, 35263, 35264, 35262, 35258 of 2012 and W.P.Nos.3406, 3543, 3544, 4662, 5222, 5564, 5922, 6592, 7910, 8765, 8766, 8767, 8768, 12300, 12301, 12302, 12303, 13081, 13532, 13533, 13534, 13847, 13848, 13849, 16035, 16036, 16037, 16044, 16045, 16077, 16078 of 2013 and W.P.No.18184 of 2014.

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W.A.Nos.1063 and 1223 of 2012 and W.P.Nos.4029, 7093, 7550, 8143, 8144, 8145, 8146, 8147, 8613, 11163, 8992, 11115, 12152, 12873, 15424, 15786, 17363, 19162, 20346, 20525, 21065, 21070, 21071, 21072, 21073, 21074, 22304, 22863, 22864, 22865, 22866, 24062, 24063, 24106, 25821, 25822, 27200, 29433, 31442, 31950, 31952, 33240, 33241, 33242, 35032, 35033, 35034, 35035, 35257, 35259, 35260, 35261, 35263, 35264, 35262, 35258 of 2012 and W.P.Nos.3406, 3543, 3544, 4662, 5222, 5564, 5922, 6592, 7910, 8765, 8766, 8767, 8768, 12300, 12301, 12302, 12303, 13081, 13532, 13533, 13534, 13847, 13848, 13849, 16035, 16036, 16037, 16044, 16045, 16077, 16078 of 2013 and W.P.No.18184 of 2014.

THE HON'BLE ACTING CHIEF JUSTICE
and
S.SOUNTHAR, J.

The learned counsel for the SIPCOT repeatedly requested this Court to grant reasonable time to pass fresh award as directed in the order. However, we grant six weeks time, due to the intervening holidays.

[T.R.,ACJ.] [S.S.,J]
17.10.2022

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WEB COPY



W.A.No.1063 of 2012 etc., batch

**THE HON'BLE ACTING CHIEF JUSTICE
and
S.SOUNTHAR, J.**

jai/ub

W.A.Nos.1063 and 1223 of 2012 and W.P.Nos.W.P.Nos.4029, 7093, 7550, 8143, 8144, 8145, 8146, 8147, 8613, 11163, 8992, 11115, 12152, 12873, 15424, 15786, 17363, 19162, 20346, 20525, 21065, 21070, 21071, 21072, 21073, 21074, 22304, 22863, 22864, 22865, 22866, 24062, 24063, 24106, 25821, 25822, 27200, 29433, 31442, 31950, 31952, 33240, 33241, 33242, 35032, 35033, 35034, 35035, 35257, 35259, 35260, 35261, 35263, 35264, 35262, 35258 of 2012 and W.P.Nos.3406, 3543, 3544, 4662, 5222, 5564, 5922, 6592, 7910, 8765, 8766, 8767, 8768, 12300, 12301, 12302, 12303, 13081, 13532, 13533, 13534, 13847, 13848, 13849, 16035, 16036, 16037, 16044, 16045, 16077, 16078 of 2013 and W.P.No.18184 of 2014.

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