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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.2605 OF 2010

AND

M.P.NO.1 OF 2010

1. Jayaramiah
2. Balraj
3. Vinodha
4. Manjunath

...Petitioners

Vs.

1. The Secretary to the Government,
Small Industries (SIC) Department,
Fort St.George, Chennai - 9.
2. The Chairman,
Tamil Nadu Small Industries Development Corporation,
Hosur.
3. The Branch Manager,
Small Industries Development Corporation,
Hosur.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the respondents, their men, agents and subordinates from interfering with the petitioner's property at Survey No.593, 576/B2 & 596 measuring an extent of 0.80 hectares, 0.67.5 hectares, $\frac{1}{4}$ th of 0.31 hectares respectively of Hosur Village, Krishnagiri District, pursuant to the resolution passed by the Board of Directors, SIDCO on 01.03.2004 in resolution no.181 and further direct the 1st respondent to issue a notification under Section 48 of the Land Acquisition Act.

For Petitioners : Mr.P.Subba Reddy

For Respondents : Mr.T.Chezhiyan, AGP, for R1.
: Mr.B.Manoharan, for R2 & R3.



O R D E R

The petitioners have filed this writ petition seeking issuance of a Writ of Mandamus to forbear the respondents and their men from interfering with the petitioners' property comprised in Survey No.593, 576/B2 & 596, measuring an extent of 0.80 hectares, 0.67.5 hectares, ¼th of 0.31 hectares respectively, situated at Hosur Village, Krishnagiri District, and consequently direct the 1st respondent to issue a notification under Section 48 of the Land Acquisition Act.

2. The case of the petitioners is that the property comprised in Survey Nos.593, 576/B2 & 596 measuring an extent of 0.80 hectares, 0.67.5 hectares, ¼th of 0.31 hectares respectively, situated at Hosur Village, Dharmapuri District belongs to one Muni Thimmiah, father of 1st and 2nd petitioners. After the demise of said Muni Thimmiah, his legal heirs namely Jayaramiah / 1st petitioner, Balraj / 2nd petitioner and Sekar / husband of the 3rd petitioner succeeded to the aforesaid property. While so, the State initiated acquisition proceedings as against the aforesaid lands for the purpose of extension of Industrial estate for SIPCOT and notification under Section 4(1) of the Land Acquisition Act (in short 'Act') was issued in G.O.Ms.No.130 dated 02.11.1988, and thereafter, enquiry under Section 5(A) of the said Act was conducted and the said Muni Thimmiah submitted his objections and sought for exclusion of the above said lands from the acquisition proceedings, however, the same was not considered and subsequently, the declaration under Section 6 of the said Act was published in G.O.Ms.No.941 dated 18.12.1989 and an award for the same was passed in Award No.4 of 1991 dated 19.12.1991. Aggrieved by the same, the petitioners filed a Writ Petition in W.P.No.17977 of 1991, challenging the said Section 6 Declaration, however, the said Writ petition was dismissed by this Court, vide order dated 01.07.1999. Even after the dismissal of the Writ Petition, the petitioners were in possession of the above said property.

3. It is the further case of the petitioners that, the petitioners issued a legal notice dated 21.09.2006 to the 3rd respondent, seeking certain documents to enable them to deal with the property independently. Pursuant to the notice, the the General Manager, SIDCO sent reply to the petitioners, vide letter dated 12.10.2006, stating that they have requested the Government to pass orders to return 2.25.0 hectares of land comprised in S.Nos.576/B2, 593 and 596 to the original owners and requested to pay back the amount of Rs.6,58,908/- to them, which was deposited by SIDCO in Civil Court. Therefore, the petitioners were eagerly waiting for the direction from the Government to re-convey the land to the petitioners. While such



being the case, in December 2009, the Branch Manager, SIDCO accompanied by other officials attempted to demolish the construction raised by the petitioners in the said property. Immediately, the petitioners lodged a police complaint on 10.01.2010. Aggrieved by the said action of the SIDCO officials, the present Writ Petition is filed.

4. The learned counsel for the petitioners submitted that though initially the lands were acquired for Industries and Commerce Department, however, later the Tamil Nadu Small Industries Development Corporation Limited (in short 'SIDCO') opted to take over the said lands and accordingly, SIDCO paid the amount of Rs.34,73,186/-, as requested, vide proceedings of Industries Department dated 09.12.1991. Further, in respect of the petitioners' property, a sum of Rs.6,58,908/- was deposited in the Civil Court, and the same was not paid to the petitioners. However, all the above said proceedings took place without following due process of law. He further submitted that, though the land acquisition proceedings were initiated in the year 1988, however, till date, no physical possession was taken by the respondents and the petitioners were in possession of the said properties. Hence, in view of the Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, as when an award 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 deemed to have lapsed. Accordingly, the acquisition proceedings initiated against the petitioners' land stands lapsed. Whiles, the SIDCO officials barged into the petitioners' property and attempted to damage the same without following due process of law, which is not sustainable. Further, the enhanced compensation awarded by the Sub-Court in favour of the petitioners was not paid by the SIDCO. Hence, he prayed for appropriate orders.

5. The learned counsel appearing for the 2nd and 3rd respondents submitted that, the petitioners have already filed a Writ petition in W.P.No.17977 of 1991, challenging the Section 6 Declaration and the same was dismissed, vide order of this Court dated 01.07.1999 and the entire compensation amount of Rs.6,58,908/- in respect of the lands measuring 2.25.0 hectares was deposited in the Civil Court. Further, based on the reference made by the petitioner, the subject matter was referred to the Reference Court under Section 18 of the said Act and the Sub Court has enhanced the compensation amount fixed. Aggrieved by the same, the SIDCO preferred appeal petitions in A.S.Nos.685-687 of 2013, however, this Court, ordered the respondents herein to remit the higher compensation as awarded by the Sub-Court.



6. Though the SIDCO, vide resolution dated 01.03.2004 decided to withdraw acquisition proceedings in respect of petitioners' property, as the enhanced compensation was huge, however, the reconveyance sought for by SIDCO was rejected by the Government in G.O.Ms.No.40/MSME(C) Dept. dated 02.07.2008, and the Revenue Divisional Officer / Land Acquisition Officer in Memo No.5953/87/B2 dated 04.12.2009, and directed the SIDCO not to withdraw the proceedings. Hence, SIDCO was forced to proceed with the acquisition proceedings, and, accordingly, the acquisition proceedings in respect of the petitioners' property was completed to safeguard the interest of the Government and thereafter, the said amount was deposited by SIDCO and the possession was taken over by SIDCO on 14.12.2009 and same was allotted in favour of the beneficiaries. Therefore, it is prayed that this Court may dismiss the writ petition.

7. Heard the arguments advanced on either side and perused the materials available on record.

8. Admittedly the land acquisition proceedings as against the petitioners' land was initiated in the year 1988 and it is equally not disputed that the said declaration issued under Section 6 of the said Act was challenged before this Court and the same was dismissed, vide order dated 01.07.1999. Further, a perusal of the counter affidavit reveals that based on the petitioners' request, the matter was referred to the Reference Court for enhancement and the Trial Court enhanced the award, vide order dated 11.07.2001 in favour of the petitioners and the subsequent appeal petitions filed by SIDCO, as against the said enhanced award, were also dismissed by this Court and therefore, the enhanced award amount was deposited by the respondent. Such being the undisputed position, the petitioner having partaken in seeking enhancement, cannot now turn back and claim reconveyance of the lands.

9. It is also pertinent to note that, once the award is passed and the amount of compensation has been received or deposited in Court, automatically the land vests with the Government and the petitioners are not entitled to claim any right over the said property. Further, it is the case of the respondents that possession has been taken by SIDCO and beneficiaries have also been allotted the said lands. Such being the case, the prayer for reconveyance sought for by the petitioner cannot be acceded. Further, reconveyance of land is within the purview of the Government and this Court cannot give any affirmative direction to the Government to reconvey the lands. The lands having been put to use for the purpose for which it was acquired, the claim made by the petitioner is devoid of merits.



10. Accordingly, the present Writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

jd/skt

To

1. The Secretary to the Government,
Small Industries (SIC) Department,
Fort St.George, Chennai - 9.
2. The Chairman,
Tamil Nadu Small Industries Development Corporation,
Hosur.
3. The Branch Manager,
Small Industries Development Corporation,
Hosur.

+1cc to Mr.P.Subba Reddy, Advocate, S.R.No.11910
+1cc to the Government Pleader, S.R.No.12305

W.P.No.2605 of 2010
and
M.P.No.1 of 2010

RSI (CO)
PM/10/06/2022