



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.35063 and 35064 of 2012 and
M.P.No.1/2012

1.R.Ramamurthy (Deceased)

2.Vijaya

3.Padmapriya

4.Saraswathiyammal

(P2 to P4 substituted as Lrs of deceased of the sole petitioner)

(vide order dated 11/03/2022 made in WMP.5841/2022 in
WP 35063/2012 & WMP 5842/2022 in WP 35064/2012)

... Petitioners in

both WPs

Vs.

1.The Special Tahsildar,
Land Acquisition,
Oragadam Expansion Scheme,
SIPCOT Zone III,
Sriperumbudur.

2.Mahalakshmi

... Respondents in both WPs

Prayer in W.P.No.35063 of 2012: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent bearing Na.Ka. No.10/2007 dated 10.12.2012 dismissing the representation of the petitioner dated 19.5.2010 in the form of the objection pertaining to payment of award passed regarding acquisition of land comprised in Survey No.64/7A, of an extent of 0.13.5 hectares and Survey No.64/7C of an extent of 0.24.5 hectares situated in Oragadam Village, Mathur Post, Sriperumbudur Taluk, Kancheepuram District, and quash the same and consequentially refer the matter to the competent court of law for deciding the matter of entitlement to receive the award amount as between the petitioner and the 2nd respondent in accordance with law.

Prayer in W.P.No.35064 of 2012: Petition filed under Article 226 of the Constitution of India to issue a Writ of



Certiorarified Mandamus calling for the records of the 1st respondent bearing Na.Ka. No.2/2007 dated 13.12.2012 dismissing the representation of the petitioner dated 19.5.2010 in the form of the objection pertaining to payment of award passed regarding acquisition of land comprised in Survey No.74/6A, of an extent of 0.12 cents situated in Oragadam Village, Mathur Post, Sriperumbudur Taluk, Kancheepuram District, and quash the same and consequentially refer the matter to the competent court of law for deciding the matter of entitlement to receive the award amount as between the petitioner and the 2nd respondent in accordance with law.

For Petitioner in both petitions : Mr.A.Palaniappan

For R1 in both petitions : Mr.R.P.Murugan Raja
Government Advocate

For R2 in both petitions : Mr.M.Kalyanasundaram
Standing Counsel for
Ms.V.Srinivasan

Common Order

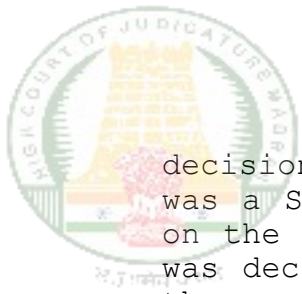
The petitioners have filed these petitions for issuance of writ of Certiorarified Mandamus in the form of the objection pertaining to payment of award passed regarding acquisition of land comprised in Survey No.64/7A, of an extent of 0.13.5 hectares and Survey No.64/7C of an extent of 0.24.5 hectares and Survey No.74/6A, of an extent of 0.12 cents situated in Oragadam Village, Mathur Post, Sriperumbudur Taluk, Kancheepuram District, and quash the same and consequentially refer the matter to the competent court of law for deciding the matter of entitlement to receive the award amount as between the petitioner and the 2nd respondent in accordance with law.

2. The case of the petitioners is that the 2nd respondent is the owner of piece and parcel of land comprised in R.S.No.74/6A land of an extent of acre 0.30 cents, RS.No.64/6A land of an extent of acre 0.33 cents, R.S.No.64/AC land of an extent of acre 0.60 cents, totally an extent of One acre and 23 cents, situated in Oragadam Village, Sriperumbudur Taluk, Kancheepuram District and the 2nd respondent entered into an Agreement of Sale in respect of the aforesaid properties of an extent of acre 10.23 cents with the deceased sole petitioner viz., Ramamurthy, (hereinafter referred as 'petitioner') by virtue of an Agreement of Sale dated 01.05.1994. In spite of his willingness to purchase the property on paying the consideration as stipulated in the agreement of sale, the 2nd respondent had refused to perform her part of the contract. In such circumstances, the petitioner has preferred a Suit for specific performance in O.S.No. 185/2004, on the file of the District



Munsif Court, Poonamallee, and the same was decreed on 26.04.2007. After the receipt of the aforesaid decree copy, the petitioner had approached the SIPCOT authorities to ascertain whether the suit properties are subject matter of acquisition. Thereafter, he came to understand that the lands situated in R.S.No.64/7A and R.S.No.64/7C were subject matter of acquisition. It is further alleged by the petitioner that unfortunately since a mistake crept in the survey number mentioned in the plaint of the above said Suit, the petitioner had filed the present application for amendment in respect of item nos.2 and 3 of the suit properties. In the meantime, it was understood that the 1st respondent had completed the acquisition process and the lands were acquired for the purpose of SIPCOT Industrial Park Expansion Scheme and that the 2nd respondent has participated in the entirety of the enquiry proceedings in the acquisition process by suppressing the Suit and Decree passed by the District Munsif Court, Tambaram for specific performance. It is alleged by the petitioner that the decree in the aforesaid Suit cannot be executed on account of mistake in the survey numbers in the aforesaid suit proceedings. Further in the meantime, the 1st respondent has determined to disburse the compensation amount and the same was proposed to be paid to the 2nd respondent. Hence, the petitioner has given a representation dated 19.05.2010 and the same was not properly considered and thereafter, the 1st respondent has passed an internal memo dated 10.12.2012, alleging that the 2nd respondent is the owner of the property and all the proceedings in respect of the acquisition were issued in the name of the 2nd respondent and further observed in the aforesaid memo that the Suit is between two individuals and the SIPCOT is not made a party to the aforesaid proceedings and hence, the same would not be binding on the actions taken at the instance of the Government and thereby, the 1st respondent is proceeding towards disbursing the entirety of the award amount to the 2nd respondent. Aggrieved by the same, the present petition is filed.

3. The learned counsel appearing for the petitioner submitted that under the Tamil Nadu Acquisition of Land for Industrial Purpose Act, if there is any dispute with regard to the apportionment of compensation or title, the Land Acquisition Authority has to refer the matter before the competent Civil Court for apportionment of compensation in terms of Section 9 of the above said Act, which provide that where several persons claim to be interested in the amount determined, the Collector shall determine the persons who, in his opinion, are entitled to receive the amount and the amount payable to each of them and further when the amount has been determined under Section 7, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute for the



decision of the Court. In the present case, admittedly there was a Suit pending between the petitioner and the 2nd respondent on the file of the District Munsif Court, Tambaram and the same was decreed on 26.04.2007. Further if any dispute arises as to the apportionment of the compensation amount, the Land Acquisition officer has to refer the matter before the competent Court for apportionment of compensation. However instead of doing the same, proceeding to disburse the amount in favour of the 2nd respondent is not sustainable one. It is the further submission of the learned counsel appearing for the petitioner that since there is a clear dispute with regard to the present title to the property, the entirety of the order passed by the 1st respondent is unreasonable and contrary to the provisions of the Land Acquisition Act. Therefore, prays for appropriate orders.

4. The learned counsel appearing for the 2nd respondent submitted that admittedly, the 2nd respondent is the owner of the property and he entered into a Sale Agreement with the petitioner and though the decree was passed for the relief of specific performance, the Sale Deed was not conveyed in favour of the petitioner. Unless the Sale Deed is conveyed, the claim of compensation before the Land Acquisition Officer is not sustainable and accordingly prays for dismissal of this petition

5. This Court has carefully considered the rival submissions and also perused the materials available on record.

6. Though the Writ Petition is pending right from the year 2012, till date the official respondents have not filed the counter affidavit, however this Court considering the pendency of the matter, is inclined to dispose of the petition based on the available record.

7. It is the case of the 2nd respondent that he is the owner of the property and he entered into a Sale Agreement with the petitioner on 01.05.1994 and it is alleged that the 2nd respondent has not performed his part of the contract for executing the Sale Deed in favour of the petitioner and for the relief of specific performance, the petitioner has filed the Suit in O.S.No.185/2004 and obtained the decree on 26.04.2007. Till date, the decree was not challenged by way or appeal and, therefore, it has attained finality. Thereafter, the petitioner made application before the authority under the Industrial Purposes Act in terms of Section 7. However his request was rejected on the ground that the authority was not made as a party to the aforesaid proceedings and hence, the same would not bind on the actions taken at the instance of the Government.

8. The question to be considered in the present case is as



to whether there was a dispute between the parties with regard to the apportionment of compensation and whether it is to be referred to competent Civil Court or not?

9. For answering the said question, the relevant provisions provided under Section 9 (1) and (2) of the the Tamil Nadu Acquisition of Land for Industrial Purpose Act, has to be looked into, which are extracted hereunder:-

9. Apportionment of amount.- (1) Where several persons claim to be interested in the amount determined, the Collector shall determine the persons who, in his opinion, are entitled to receive the amount and the amount payable to each of them.

(2) When the amount has been determined under section 7, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute for the decision of the Court.

10. The above provision makes it clear that if any dispute arises as to the apportionment of the amount or as to the persons to whom, the said amount is entitled to, the Collector or the Land Acquisition Officer may refer such dispute before the concerned Court. However the said provision has not been followed by the authorities and decree granted by the Civil Court was not taken to consideration in the order impugned in this Writ Petition and therefore on the short ground, the impugned order is liable to be set aside.

11. For the reasons aforesaid, this Writ Petition is allowed and the impugned order of the 1st respondent bearing Na.Ka. No.10/2007 dated 10.12.2012, is set aside and the Land Acquisition Officer, is directed to refer the matter to the competent Civil Court for apportionment of compensation in terms of Section 9(2) of the Tamil Nadu Acquisition of Land for Industrial Purpose Act. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

The Special Tahsildar,
Land Acquisition,
Oragadam Expansion Scheme,
SIPCOT Zone III,
Sriperumbudur.

+2cc to Mr.A.Palaniappan, Advocate, S.R.No.201689,20169
+2cc to Mr.D.Ravi, Advocate, S.R.No.20266
+1cc to the Government Pleader, S.R.No.20603

W.P.No.35063 and 35064 of 2012

SSN(CO)
CT 28/04/2022