

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2022

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. Nos.33166 to 33168 of 2016
and
WMP Nos.28691, 28693 and 28695 of 2016

M/s.Titanium Equipment &
Anode Manufacturing Company Ltd.,
rep. By its Director S. Jayakumar

...Petitioner in both W.Ps. Nos.33166
and 33168 of 2016

Padma ...Petitioner in W.P. No.33167 of 2016

Versus

- 1.The State of Tamil Nadu by
rep. By the Principal Secretary &
Commissioner of Land Administration,
Fort St. George,
Chennai.
- 2.The District Collector,
Kancheepuram.
- 3.The Special Tahsildar (Land Acquisition)
Broad Gauge Railway Line,
Madurandagam,
Kancheepuram District.
- 4.Southern Railway,
rep. By its Deputy Chief Engineer,
Office of the Deputy Chief Engineer,
Gauge Conversion,
Egmore, Chennai - 600 008. ...Respondents in all W.P.s

Prayer in W.P. No.33166 of 2016 Writ Petition filed under
Article 226 of the Constitution of India to issue Writ of
Certiorarified Mandamus calling for the records relating to (i)
the Notification u/s. 4(1) of the Land Acquisition Act 1894
bearing Rc. No.2674/2003/F1, dated 15.07.2010 and published in
the Kancheepuram District Gazette Extraordinary No.28 dated
20.08.2010 on the file of the 2nd respondent, ii) the Declaration
u/s. 6 of the Land Acquisition Act 1894 bearing No.VI (1)/

264/2011, dated 27.05.2011 and published in the Tamil Nadu Govt. Gazette No.23, dated 22.06.2011 on the file of the 1st respondent, iii) the Award No.3/2012-13, dated 31.10.2012 on the file of the 3rd respondent and iv) the Notice bearing Na.Ka.2008/2002/A, dt. 06.06.2016 on the file of the 3rd respondent and quash the same in so far as the same are relating to the portion of the petitioner's Industry Land comprised in S. No.261B/2A1A, measuring 0.03.3 HAC and in S. No.261B/2A2B2A (new Sub-Division S. No.261 B/16), measuring 0.01.3 HAC i.e. In total 0.04.6 HAC (4,951.44 sq. ft) in No.2 Vandalur Village, Kancheepuram District and consequently, direct the respondents to initiate acquisition proceedings afresh under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013, acquire the above portion of the Industry Land of the Petitioner and determine and pay the compensation to it in accordance with the methods and procedures prescribed therein.

Prayer in W.P. No.33167 of 2016 Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus calling for the records relating to (i) the Notification u/s. 4(1) of the Land Acquisition Act 1894 bearing Rc. No.2674/2003/F1, dated 15.07.2010 and published in the Kancheepuram District Gazette Extraordinary No.28 dated 20.08.2010 on the file of the 2nd respondent, ii) the Declaration u/s. 6 of the Land Acquisition Act 1894 bearing No.VI (1)/264/2011, dated 27.05.2011 and published in the Tamil Nadu Govt. Gazette No.23, dated 22.06.2011 on the file of the 1st respondent, iii) the Award No.3/2012-13 dated 31.10.2012 on the file of the 3rd respondent and iv) the Notice bearing Na.Ka.2008/2002/A, dt. 06.06.2016 on the file of the 3rd respondent and quash the same in so far as the same are relating to the portion of her Industry Land comprised in S. No.261B/2A2A1, (new Sub-Division S. No.261 B/14), measuring 0.01.4 HAC and in S. No.261B/2A2B1A (new Sub-Division S. No.261 B/15), measuring 0.00.9 HAC i.e. in total 0.02.3 HAC in No.2, Vandalur Village, Kancheepuram District and consequently, direct the respondents to initiate acquisition proceedings afresh under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013, acquire the above portion of her Industry Land and determine and pay the compensation in accordance with the methods and procedures prescribed therein.

Prayer in W.P. No.33168 of 2016 Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus calling for the records relating to (i) the Notification u/s. 4(1) of the Land Acquisition Act 1894 bearing Rc. No.2674/2003/F1, dated 15.07.2010 and published in the Kancheepuram District Gazette Extraordinary No.28 dated

20.08.2010 on the file of the 2nd respondent, ii) the Declaration u/s. 6 of the Land Acquisition Act 1894 bearing No.VI (1)/264/2011, dated 27.05.2011 and published in the Tamil Nadu Govt. Gazette No.23, dated 22.06.2011 on the file of the 1st respondent, iii) the Award No.3/2012-13, dated 31.10.2012 on the file of the 3rd respondent and iv) the Notice bearing Na.Ka.2008/2002/A, dt. 06.06.2016 on the file of the 3rd respondent and quash the same in so far as the same are relating to the portion of the petitioner's Industry Land comprised in S. No.261B/2C1A (new Sub Division S. No.261 B/17), measuring 0.02.6 HAC in No.2, Vandalur Village, Kancheepuram District and consequently, direct the respondents to initiate acquisition proceedings afresh under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 in the name of the petitioner as its owner, acquire the above portion of the Industry Land and determine and pay the compensation to it in accordance with the methods and procedures prescribed therein.

For Petitioner in all W.P.s	:	Mr.T.M.Naveen
For Respondents in all W.P.s	:	Mr.P.Sathis - AGP for R1 to R3 Mr.P.T.Ram Kumar St.Counsel For R4

COMMON ORDER

Since the issue involved in all these writ petitions, is one and the same, these writ petitions are disposed of by this common order.

2. It is the case of the petitioners in respective Writ Petitions that they are the absolute owners of the respective Industrial Lands bearing S.Nos.261-B/2A2A1 pt. & S. No.261-B/2A2B1A pt. Situated at No.2, Vandalur Village, Kancheepuram District for the total extent of 3.75 Acres. Their lands were sought to be acquired under the Land Acquisition Act, 1894 for the purpose of Broad Gauge Railway Line from Tambaram to Chengalpattu. Section 4(1) Notification was published on 15.07.2010 and Section 6 Declaration was published on 22.06.2011 in the Gazette for the said acquisition. It is the grievance of the petitioners that mandatory procedures under Sections 11, 12(2) of the Act has not been followed by the respondents while passing the Award and the same was communicated to them only on 05.06.2016. Such being the position, they are now claiming their right in terms of Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation & Resettlement Act 2013 for receiving the compensation amount. Hence, these writ petitions have been filed with the aforesaid prayers.

3. Learned counsel for the petitioners submitted that the respondents have not communicated the Award within the period stipulated in the Act and thus the period become lapsed in view of the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation & Resettlement Act 2013. He further submitted that though the petitioners received the Award amount and submitted an application to refer the matter under Section 18 seeking for enhancement before the competent Court, and, therefore, they may be permitted to agitate their right before the competent court. Hence, he prays before this Court for issuance of appropriate directions.

4. Replying to the contention raised by the learned counsel for the petitioners, Mr.A. Anandan, learned Government Advocate appearing for the respondents submitted that the industrial lands belonging to the petitioners were acquired and Award amount also paid to the respective petitioners. He further drew the attention of this Court to the counter affidavit, specifically to paragraph Nos.11, 12 and 13, wherein it is stated that the Award was passed for a total amount of Rs.4,08,67,693/- on 31.10.2012, in which the amount determined were received by the respective petitioners on 25.10.2016 under protest. Further, it is stated that since the respondents have taken possession of land in the year 1997 itself, interest was also paid from the date of possession till the date of Award. Also, it is stated that based on the application received from the petitioners, the matter was also referred under Section 18 of the Act before the Sub-Court, Chengalpattu and the same was taken on file on 21.06.2017 vide LAOP Nos.31, 32 and 33 of 2017. Hence, he prays for dismissal of all these writ petitions on the aforesaid ground.

5. This Court heard the undivided arguments made by the learned counsel on either side and perused the materials placed on record.

6. It is not in dispute that the industrial lands pertaining to the petitioners were acquired by the respondents for widening Broad gauge Railway Line from Tambaram to Chengalpattu. It is also not in dispute that 4(1) Notification and 6 Declaration were published in a proper manner. It is further admitted that the respondents have taken possession of the subject lands in advance. Further, it is clear that the petitioners have not raised any objections at the time of 5A enquiry. Though it is the contention of the petitioners that the Award has been communicated to them after the period got lapsed, it has to be borne in mind that the lands have since been utilised by the respondents for the requisite purpose. More so, it came to light that the petitioners have received the Award amount with interest including the period of advance

possession taken over by the respondents. Later as per the requisition submitted by the petitioners, the matter was also referred under Section 18 for enhancement of compensation before the Sub Court, Chengalpattu. That being the scenario, the relief sought for in these writ petitions claiming their right under the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation & Resettlement Act 2013 can be agitated only before the competent jurisdiction court by filing proper application and not before this Court.

7. For the foregoing reasons, these writ petitions are disposed of. granting liberty to the petitioners to canvass all those points with regard to the entitlement of their right under the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation & Resettlement Act 2013 before the jurisdictional Court. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

vsi2

To

- 1.The Principal Secretary & Commissioner of Land Administration
State of Tamil Nadu, Fort St. George, Chennai.
- 2.The District Collector, Kancheepuram.
- 3.The Special Tahsildar (Land Acquisition)
Broad Gauge Railway Line,
Madurandagam, Kancheepuram District.
- 4.The Deputy Chief Engineer,
Southern Railway, Office of the Deputy Chief Engineer,
Gauge Conversion, Egmore, Chennai - 600 008.

+3ccs to Mr.T.M.Naveen, Advocate SR. No. 26312, 26313, 26314
+1cc to Mr.P.T.Ram Kumar, Advocate SR. No. 26268
+1cc to Government Pleader SR. No. 26547

W.P. Nos.33166 to 33168 of 2016

VGII (CO)
PR (25/07/2022)